

1 happened, correct?
2 A. That's correct.
3 Q. Did Cappabianca admit that on November 28, 2001
4 R. [REDACTED] told her that?
5 A. She admitted that she knew about it prior to this
6 meeting. And she also admitted that she had known about it
7 for quite some time.
8 Q. She didn't give you a date?
9 A. She did not give me a date.
10 Q. Did she give you a month?
11 A. No.
12 Q. Did you get angry when she told you that?
13 A. Yeah.
14 Q. What did you say?
15 A. I said, well, if you've known about this since
16 November 27th, and that's the word I used, I said, why would
17 you not take an initiative to do something or at least call
18 me and then maybe we could have sat down and done something.
19 Something that serious needs to be taken care of.
20 Q. Her response was?
21 A. She said you can't take the word based on one
22 child. She said, kids all the time make up stories when
23 they do things. She said, there was no proof based on what
24 she said happened. But I said, even if there's no proof,
25 even if my child was lying, you know. Hypothetical let's

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1 say she was lying, you're still supposed to do something as
2 far as taking the initiative.
3 Q. Like tell the police?
4 A. Pardon me?
5 Q. Like tell the police?
6 A. Yeah, or call children's services or something or
7 at the very least call me and tell me because I would have
8 went right down there in a heartbeat to talk to her. I
9 would have been right down in a heartbeat.
10 Q. Did you at some point in time ask anybody at
11 Strong Vincent to make R. [REDACTED] the subject of the S-A-P team?
12 A. Huh? I'm not sure I understand what that is.
13 Q. Do you know what the S-A-P team is? The student
14 assistant program team?
15 A. Yeah.
16 Q. Chris Rule talked about it today.
17 A. Honestly, to be truthful with you, I really didn't
18 hear half of what he said.
19 Q. Well, do you know what S-A-P means?
20 A. No, I'm sorry.
21 Q. Have you heard the term before, S-A-P or SAP?
22 A. No, not that I remember of anyway.
23 Q. Have you heard of the term student assistance
24 program?
25 A. Yes.

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1 Q. When did you first hear about that?
2 A. Hard to remember where I heard that from. I
3 always thought the student assistance program was like when
4 you get involved with a kid that wanted to go on into
5 college and that, that's what I thought.
6 Q. Did R. [REDACTED] have any relationship at all with Chris
7 Rule before January 10, 2002?
8 A. I don't believe so.
9 Q. What I mean by relationship is whether she saw him
10 as a counselor.
11 A. I can't 100 percent -- I don't believe so.
12 Q. You have no knowledge?
13 A. I have no knowledge of it.
14 Q. The first time you ever met Chris Rule was
15 January 10, 2002?
16 A. Yeah. It was for a very brief time.
17 Q. Did you ever see Chris Rule after that day?
18 A. I don't believe so. I can't remember. I don't
19 think so.
20 Q. Mr. P. [REDACTED] please go to Exhibit K, specifically
21 Page 4, first paragraph. The pages aren't numbered
22 unfortunately.
23 MR. OLDS: That's the one that begins with January
24 10th?
25 MR. MARNEN: January 10.

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1 Q. If you go down to the very bottom of that. You've
2 taken R. [REDACTED], and I am going to read it to you. Third line
3 up from the bottom, R. [REDACTED] was in her room but said not much
4 of anything. I had a long talk with my wife, and we both
5 felt like it was our fault. We felt we should have done
6 something. If only I had come there earlier, the blame
7 game. That night I recalled the whole conversation over
8 again. I couldn't sleep, I cried. Okay?
9 A. Yes.
10 Q. Why did you both feel it was your fault?
11 A. It was more like a guilt feeling, you know,
12 because the day that I picked up R. [REDACTED] on the 27th we were
13 all supposed to go to a family movie. And my little girl
14 M. [REDACTED], we were having difficulty finding her clothes.
15 And so we were kind of consequently late picking R. [REDACTED] up.
16 And looking back on it, you know, if we had maybe laid out
17 her clothes a little bit early, if we had, you know, maybe
18 perhaps down something differently where we wouldn't have
19 been late picking her up this might never had happened.
20 Q. You are talking now about the day of the rape?
21 A. On November 27th, yes.
22 Q. Was your only job at that time a crossing guard
23 for the school district -- I'm sorry, for the police
24 department on November 27, 2001?
25 A. Yes.

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1 involved with it. I wasn't sure exactly. It made perfect
2 sense to me.
3 Q. So R [REDACTED] was interviewed by Pamela Barber?
4 A. Yes.
5 Q. In the company of you and --
6 A. Detective Green.
7 Q. -- Stanley Green?
8 A. Yes.
9 Q. While that interview was going on you received a
10 cell phone telephone call from Jan Woods?
11 A. Correct.
12 Q. The content of that conversation is recounted on
13 Exhibit K on the page we are on?
14 A. Yes.
15 MR. MARNEN: Off the record.
16 (Discussion held off the record.)
17 MR. OLDS: While you were gone there was a
18 discussion, and he might need to change part of
19 his testimony.
20 Q. Go ahead. What part?
21 A. My daughter she said I didn't pick her up on the
22 27th. I picked her up on the second incident that happened.
23 So these times and dates it's so hard to remember.
24 Q. R [REDACTED] did testify, I just read her deposition
25 recently, that she walked home the night of the rape.

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1 A. Right. She said, dad, no, you didn't pick me up,
2 you picked me up on the second incident.
3 Q. Okay.
4 A. I made an error.
5 Q. Fair enough. I understand, that happens. Well, I
6 think we were at R [REDACTED] was being interviewed by Detective
7 Barber, whose first name is now escaping me.
8 A. Pamela.
9 Q. Pamela Barber, and you were there and Green was
10 there, right?
11 A. That's correct.
12 Q. You received a phone call from Jan Woods on your
13 cell phone.
14 A. Yes.
15 Q. Just go to Exhibit K, tell you what, give me your
16 copy of your Exhibit K and I am going to put some page
17 numbers on it.
18 (Brief pause.)
19 Q. I have handwritten on that exhibit pages one
20 through nine, I think. I am going to do the same thing to
21 my copy. Page 4.
22 A. Okay.
23 Q. You were recounting the telephone conversation in
24 the third paragraph of Page 4, were you not?
25 A. Yes.

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1 Q. With Jan Woods, right?
2 A. Yes.
3 Q. And was it your understanding based on that
4 conversation that Janet Woods had not yet contacted the
5 police?
6 A. That was any understanding, yes.
7 Q. Did you believe at that point in time that she had
8 no intention of contacting the police?
9 A. At that time, you mean?
10 Q. Yes.
11 A. I figured she probably would.
12 Q. Did Janet Woods say in that conversation that
13 there were police at Strong Vincent that day interviewing
14 people?
15 A. No, she didn't tell me.
16 Q. On January 10 or at any time after January 10 up
17 until the time you have this conversation with Janet Woods
18 on the morning of January 11, so between the meeting with
19 Woods on the morning of the 10th and the telephone
20 conversation with Woods on the morning of the 11th, did
21 anybody from Strong Vincent or anybody from the school
22 district tell you that they wanted to interview R [REDACTED] that
23 the police wanted to interview R [REDACTED]
24 A. From the school district?
25 Q. Yes.

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1 A. No. I went down there and detective --
2 Q. Did anybody from the school district tell you
3 during that period of time that the police wanted to
4 interview R [REDACTED]
5 A. May I make a footnote here?
6 Q. Sure.
7 A. When you ask me questions, could you keep the
8 paper down so I can see your mouth?
9 Q. I'm sorry.
10 A. I didn't want to be rude and say anything.
11 Q. You read lips. So keep my hand away from my face.
12 A. I'm trying to lean this way.
13 Q. I will ask you again.
14 A. Thank you.
15 Q. Between the time you met with Janet Woods on the
16 10th and the time that she had called you on the 11th when
17 you and R [REDACTED] were being interviewed by the police at the
18 police station, during that roughly 24-hour period, did
19 anybody from the school district tell you that the police
20 wanted to interview R [REDACTED] at Strong Vincent?
21 A. No.
22 Q. Okay. The next entry on Exhibit K on Page 4 is an
23 entry dated January 15, 2002 and that's about R [REDACTED] I am
24 going to read it. R [REDACTED] friend named T [REDACTED] had come over
25 to our place and said, I can't hang with R [REDACTED] anymore

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1 because she sucks dick. Is that exactly what T [REDACTED] said?
2 A. Yes.
3 Q. What is -- is that how you spell her first name,
4 T [REDACTED]
5 A. I believe so, yes.
6 Q. Is that a nickname for something?
7 A. No.
8 Q. Do you know her last name?
9 A. I think it's N [REDACTED]
10 Q. I have an affidavit from someone named Robin
11 Johnson.
12 A. Yeah.
13 Q. It indicates that she's is T [REDACTED] mother, I
14 believe.
15 A. Yes, that's T [REDACTED] mom.
16 Q. So Toni's mother is named Robin Johnson?
17 A. That my understanding, yes.
18 Q. But T [REDACTED] last name is not Johnson?
19 A. I don't -- is it?
20 Q. What is her last name?
21 MISS R. P [REDACTED]: N [REDACTED]
22 Q. Do you have any idea how to spell that?
23 A. No.
24 MISS R. P [REDACTED]: I think it's, N- [REDACTED]
25 Q. N- [REDACTED]

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1 A. Yes, she told me that.
2 Q. In your house?
3 A. Yeah, she came over.
4 Q. If she wasn't allowed to play -- if she wasn't
5 allowed to hang out with R [REDACTED] anymore, what was she doing
6 at your house?
7 A. Probably sneaking around.
8 Q. Disobeying orders. And she told you, you asked
9 her for an explanation, and she said that the day that you,
10 Mr. Richard P [REDACTED] were at Vincent talking with Linda --
11 or with Janet Woods, T [REDACTED] and her mother were at Strong
12 Vincent talking with Linda Cappabianca?
13 A. That's correct. She called her Miss Cap.
14 Q. When you heard Miss Cap, you think that's Linda
15 Cappabianca?
16 A. That's correct.
17 Q. All the kids called Linda Cappabianca Miss Cap?
18 A. That's correct. That was my understanding, yes.
19 Q. How did you know that T [REDACTED] was talking about the
20 day that you were in there, January 10th?
21 A. Because when the meeting took place I saw Robin
22 and Toni there in the office where I had actually met with
23 Miss Woods. As I told you before, I met with Miss Woods in
24 the main office like. And it's not my business to know what
25 they are there for. I am not going to ask them, what are

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1 MR. OLDS: Or N- [REDACTED]
2 A. I have no clue.
3 Q. Okay. Does T [REDACTED] -- did T [REDACTED] live with her mother
4 on January 15, 2002?
5 A. I guess so, I am not sure.
6 Q. What you knew at the time was T [REDACTED] you knew that
7 name and not --
8 A. Yeah.
9 Q. I think we talked about this, and I am not
10 remembering what our exchange was, but I asked you if T [REDACTED]
11 was a nickname, I think.
12 A. Yes, you asked me that.
13 Q. You don't know, right?
14 A. No, I think her name is T [REDACTED]
15 Q. Not Antonia or anything like that?
16 A. No. She's a girl, so T [REDACTED]
17 Q. Well, there's A [REDACTED] as a girl's name.
18 A. Oh, okay.
19 Q. Did T [REDACTED] say this to you?
20 A. What? Oh, yes, I thought you were reading
21 something.
22 Q. Did she say, I can't hang with R [REDACTED] anymore
23 because she sucks dick?
24 A. That is what she said to me.
25 Q. She said that to you?

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1 you here for.
2 Q. You saw them there that day?
3 A. Yes, I saw them there that day.
4 Q. Did you talk about the fact that you had seen
5 Robin and her -- I'm sorry T [REDACTED] and her mother that day?
6 A. Pardon me?
7 Q. Did you talk with T [REDACTED] on January 15th about
8 seeing her mother and her at Vincent on the 10th?
9 A. No.
10 Q. How did you put it together that it happened on
11 the 10th?
12 A. Because I hadn't seen Robin in almost, I would
13 say, a good ten years. So the only time I had ever known --
14 I haven't seen Robin in a long time. Back in 1992, I think
15 '93, I used to be next door neighbors with them and I used
16 to baby-sit their little girl, that was like for a year and
17 then we moved out.
18 Q. 1993 you were, what, 25 years old, 28?
19 A. Somewhere around there, I think. My math ain't
20 that great.
21 Q. You were married in '65, didn't you tell me?
22 A. Pardon me?
23 Q. You were married in 19 --
24 MR. OLDS: Born.
25 A. No, I was born in '64.

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1 MR. OLDS: '85.
2 Q. I'm sorry, wrong life event. You were born in
3 '65?
4 A. I was born in '64.
5 Q. '64, you baby-sat for Johnson when?
6 A. I think it was '93, I think, but I am not sure.
7 Those years are so --
8 Q. That's about 28 or 29 years old?
9 A. Right around there. I was in the my 20s, I
10 believe. I can't remember exactly, it's been so long. I
11 didn't know who they were when I first bumped into them.
12 Q. Was Robin the kid you were babysitting?
13 A. Robin, no.
14 Q. Is Robin your age?
15 MR. OLDS: Robin is the mother.
16 A. I don't know how old Robin is.
17 Q. Back in '93 who were you babysitting?
18 A. I baby-sitted (sic), well, on and off once in a
19 great while I baby-sitted for Robin. I baby-sitted most of
20 the neighbors' kids over there.
21 Q. Did you babysit Robin or did you babysit --
22 A. Not Robin, Robin was an adult.
23 Q. How old is Robin, your age roughly?
24 A. I don't have no clue.
25 Q. But she's an adult?

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1 A. She's an adult.
2 Q. Were you babysitting T [REDACTED] in 1993?
3 A. Once or twice, yes.
4 Q. When you talk about babysitting that's who you
5 were babysitting?
6 A. Yeah. If she had to go to the store or something
7 she'll say, hey, Rich, can you watch my kids for a minute.
8 I watch her kids for a little bit, wasn't even that long of
9 a time.
10 Q. How long were you neighbors with Robin?
11 A. About a year, maybe less than that.
12 Q. Is that the only time you had known Robin? Did
13 you know her before you became a neighbor of hers?
14 A. No.
15 Q. And you hadn't seen her since the time you stopped
16 being neighbors up until the time you saw her in Vincent
17 that day; is that what you're saying?
18 A. Yes.
19 Q. You hadn't seen her for nine years?
20 A. Pretty close to it, yeah.
21 Q. You ran into her at Vincent and she was with T [REDACTED]
22 and you were with Rachel?
23 A. That's correct.
24 Q. And is it the fact that you saw Robin at Vincent
25 on January 10th your basis for concluding that she must have

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1 had that conversation with Linda Cappabianca on January 10,
2 2002?
3 A. At that time, that point in time, yes.
4 Q. Did Robin later confirm that?
5 A. I was infuriated.
6 Q. What?
7 A. I was mad, okay.
8 Q. I am only trying to figure out why you knew it was
9 January 10th right now.
10 A. Because, as I said to you before, I hadn't seen
11 Robin in years. And I didn't even recognize Robin at that
12 point because it had been so long. I really didn't know
13 Robin that well anyways in the very beginning. When R [REDACTED]
14 met up with T [REDACTED], you know, it was kind of like, wow, hey, I
15 haven't seen you in so long, you know what I mean? And they
16 wanted to be friends but --
17 Q. How did you decide that January 10th was the day
18 Robin was in Strong Vincent and Linda Cappabianca told her
19 this about R [REDACTED]
20 A. Because when I asked Miss Cappabianca -- I'm
21 sorry, excuse me. When I asked Miss Woods, isn't Miss
22 Cappabianca going to be at this meeting too, because I
23 automatically assumed because they said we need to talk, on
24 January 9th they both were insinuating that both of them was
25 going to be at the meeting, which was the following day on

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1 January 10th. And when I got in the office, of course, it
2 was Mr. Rule, and that other woman with long, brown hair and
3 Miss Woods. And I asked Miss Woods, well, isn't
4 Miss Cappabianca going to show up. And she had said, she's
5 tending other business matters with other parents, and that
6 kind of put, you know, the two together.
7 Q. You saw Robin Johnson at Vincent on the 10th.
8 Cappabianca was dealing with other parents on the 10th, you
9 concluded from that she met with Johnson that day?
10 A. At that point in time, yes. It wasn't until I
11 actually called Robin, and I didn't even say to Robin in the
12 beginning I didn't say, hey, did you have a meeting. I
13 asked her, I said, I told her -- I can't remember the way I
14 phrased it. I said, what's up with T [REDACTED] I said, you know,
15 are you aware of what T [REDACTED] was saying. She said, what. I
16 said, well, she's talking about R [REDACTED] sucking dick, what's
17 up with that? She said, well, Miss Cap -- Miss Cappabianca
18 and I were having a conversation and she said -- and she was
19 telling me about what R [REDACTED] had done. I said, well, did
20 she explain to you that it might have been forced sex there?
21 Did she even explain to you -- I said, why in the world
22 would she be talking to you when she didn't even come to me.
23 Why would she go -- because, see, Robin would never have
24 known about that. I didn't tell Robin. I have no business
25 to tell Robin because I haven't seen Robin in years.

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1 Q. How did you decide it was January 10th?
2 A. Because that's the only time I could think of when
3 T [REDACTED] said the other day, which was actually just a few short
4 time period, wasn't like she said last week or two weeks or
5 three weeks. She said the other day and I knew, you know
6 what I mean?
7 Q. All right.
8 MR. OLDS: Can we take a minute break, Jim?
9 (Brief recess.)
10 Q. Did you ever find out from anybody why Linda
11 Cappabianca had that conversation with Robin Johnson and her
12 daughter?
13 A. Did I find out what?
14 Q. Did anybody ever tell you why Linda Cappabianca
15 met with Robin Johnson and her daughter, T [REDACTED], and told her,
16 encouraged her, to keep T [REDACTED] away from R [REDACTED] because R [REDACTED]
17 was promiscuous?
18 A. No one came and told me about it, if that is what
19 you're asking me.
20 Q. Did you ever ask Cappabianca why she had such a
21 meeting and said such a thing?
22 A. I didn't talk to her after -- I don't believe I
23 talked to her after January 9th. Yeah, well, except for the
24 time I met her in the hallway, but I don't remember going
25 back. I know if I would have went back there I would have

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1 been saying some things I should not say.
2 Q. You said to Robin Johnson, why is she telling you,
3 what is your interest in this, right?
4 A. Yeah. Well, I said to her why is she telling you
5 when, you know, she --
6 Q. What did Robin say about that?
7 A. She said she just wanted to make sure that she
8 knows who my daughter is hanging around with, what kind of
9 kid it is.
10 Q. Did anybody ever tell you that Linda Cappabianca
11 told other parents besides Robin Johnson the same kind of
12 thing?
13 A. I don't remember who it was that made notations.
14 I don't know who the other parents were.
15 Q. Was T [REDACTED] J [REDACTED] ever at your house before
16 January 15th, 2002?
17 A. I don't think so.
18 Q. Was T [REDACTED] J [REDACTED] at that time a Strong Vincent
19 student?
20 A. I think that -- I don't know. We had just moved
21 in from Arizona. We really didn't have no connections or
22 ties with anybody. I can't say one way or the other whether
23 she went to school there or whether she was just starting
24 school there. I don't know. But my thoughts are if she
25 knew, she must have been pretty close to knowing who Robin

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1 was and who T [REDACTED] was, otherwise the conversation wouldn't
2 have taken place.
3 Q. After Robin Johnson told you this -- I'm sorry. I
4 guess the next day you confirmed with Robin Johnson that she
5 had been told this by Linda Cappabianca?
6 A. Yes. I called her several times. I wanted to
7 hear it from her mouth, not just the word of a kid.
8 Q. She confirmed it?
9 A. Right.
10 Q. Did you call Linda Cappabianca about this?
11 A. I don't remember if I did or not. I was so
12 bitterly angry about it.
13 Q. Did you call anybody at the Erie School District
14 about this?
15 A. No, because R [REDACTED] wasn't going back to school.
16 Q. You regarded that as an outrageous breach of
17 privacy, did you not?
18 A. Pardon me?
19 Q. You regarded what Cappabianca said to Toni Johnson
20 as an outrageous breach of privacy, did you not? You
21 thought it was awful she's talking about your daughter like
22 this --
23 A. I thought it was horrible.
24 Q. -- to somebody else. Why didn't you tell somebody
25 at Erie School District about it; why didn't you complain

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1 about it?
2 A. Because here's my thought and my sentiments on
3 that. My daughter has been removed for something that was
4 not her fault. I now have the belief that my daughter has
5 been talked about to other parents. I'm at this point
6 believing that there is no police involvement outside of
7 what I'm saying. And there is no reason for me to go back
8 there and talk to these people when they haven't done
9 anything in the very beginning. I didn't see any reason why
10 to go back because it wouldn't have made a difference
11 anyway. They weren't being responsible, in my opinion, to
12 do what they were supposed to do. And to talk about it to
13 another parent that just made me all the more angry. If I
14 had gone back there, I know I would have blown my stack. I
15 am a very patient man. I'm a very kind person, but I have
16 my limitations.
17 Q. It didn't cross your mind to complain to someone
18 about Linda Cappabianca?
19 A. The only time it crossed my mind to talk to
20 someone, other than, you know, the police department or
21 whatever, is on March 25th which was, slash, 26th, when my
22 daughter stabbed me and she had tried to commit suicide
23 because by that time it was so out of control with her, I
24 had lost all hope and everything. The officer that had
25 taken her to Millcreek Community Hospital he said, you need

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1 to go to Dr. Barber, I think it was John Barber his name he
2 used. He said, because whoever Miss Cappabianca was, he
3 said that it was not right what she did based on what your
4 kid said.
5 Q. You mean Dr. Barker the superintendent?
6 A. Yeah. I was going to do that, but by that time
7 R [REDACTED] was -- I was dealing with the pressures of R [REDACTED] and
8 the way she was slipping. I was losing my child fast.
9 Q. So at any time before you filed this lawsuit did
10 you lodge a complaint with anybody at the Erie School
11 District about the conduct of Janet Woods or Linda
12 Cappabianca relative to this matter?
13 A. I am not really following.
14 Q. At some point in time you filed a lawsuit, right,
15 that's why we're here?
16 A. Yes.
17 Q. At any time before you did that, did you make a
18 complaint to anybody at the school district about Woods and
19 Cappabianca and how they handled this whole thing?
20 A. No, not really, no. All I did was I just
21 basically told exactly like I had written up here before. I
22 said, look, you had ample opportunity. Even on the phone
23 call I had with Miss Woods at the police department, I said,
24 you had since November 27 to deal with this and you never
25 get around to doing it. You had plenty of opportunity to do
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1 something in between that time period, and you haven't done
2 till now. I said, that's it, I'm taking matters in my own
3 hands, and I did.
4 Q. Who is Michelle Hettrick?
5 A. That would be the juvenile probation officer for
6 B [REDACTED], C [REDACTED] and C [REDACTED] B [REDACTED]
7 Q. At any time before the rape that occurred on
8 November 27, 2001, did R [REDACTED] ever receive any counseling of
9 any kind?
10 A. She went to rape crisis.
11 Q. Listen to me carefully, though, before she was
12 raped.
13 A. I'm sorry.
14 Q. Before November 27th, 2001, the day she was raped,
15 did she ever receive any counseling from anybody?
16 A. No, unh-unh.
17 Q. After the rape you know she was -- she did receive
18 counseling at rape crisis?
19 A. Yes.
20 Q. And she also received counseling at Millcreek
21 Community Hospital?
22 A. That is also correct, I believe. There was a
23 psychiatrist there.
24 Q. Yes. That's what I mean by counseling. I am
25 trying to -- she has received some mental health attention
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1 after the whole thing was turned into the police in early
2 January of 2002, correct?
3 A. That's correct.
4 Q. She's received mental health attention from people
5 at Millcreek Community Hospital?
6 A. That's correct.
7 Q. Rape crisis?
8 A. That's correct.
9 Q. And I think other places?
10 A. Yes.
11 Q. Is one of those places Sarah Reed?
12 A. As far as Sarah Reed is concerned, I don't know
13 how much counseling they actually gave her. I know there
14 was a time period, and I can't remember exactly when it was,
15 but she there only for school purposes only, no attachment
16 to counseling or anything of that nature. She was only
17 there for school purposes only, and she did not receive
18 counseling. I don't remember if it was in eighth grade year
19 or her ninth grade year. I don't remember how that -- I
20 remember that there was a time period at Sarah Reed she did
21 not receive any counseling because she was not sent there
22 for any kind of problem, she was just sent there just to
23 remain in there for schooling only.
24 Q. When she went there in seventh grade in January of
25 2002 and finished out the year, during the rest of that
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1 seventh grade she received no counseling at all at Sarah
2 Reed?
3 A. I don't know if she received counseling. Again,
4 like I said before, I don't know. I think she received
5 counseling in the seventh, slash, eighth grade year. I
6 don't think it was in the ninth grade.
7 Q. I misunderstood you then. She did receive some
8 counseling in seventh grade at Sarah Reed?
9 A. That is my understanding.
10 Q. Did you attend intake at Sarah Reed?
11 A. I believe so, yeah. Well, I went to the meetings
12 there. I think I went to the intake meeting on the 25th of
13 January.
14 Q. R [REDACTED] was there too?
15 A. Yes.
16 Q. Was Shelly there?
17 A. I don't believe so.
18 Q. Just you and R [REDACTED]?
19 A. That's my memory. The reason I say that is
20 because Shelly's involvement mostly was limited only because
21 of her health reasons. So a lot of times she was too sick
22 to do anything. So, I mean, if I remember her or not being
23 there is only because 80 percent of the time she is not.
24 Q. Does she have a physical health problem?
25 A. She has a lot of them.
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD P., by and for :
R. [REDACTED] P., and DENISE L., :
by and for K. [REDACTED] L., :
Plaintiffs :

v. :

Civil Action No. 03-390

Erie

SCHOOL DISTRICT OF THE CITY :
OF ERIE, PENNSYLVANIA; JANET :
WOODS, Individually and in :
her Capacity as Principal of :
Strong Vincent High School; :
and LINDA L. CAPPABIANCA, :
Individually and in her :
Capacity as Assistant :
Principal of Strong Vincent :
High School, :
Defendants :

Continued Deposition of RICHARD P. [REDACTED],

taken before and by Janis L. Ferguson, Notary
Public in and for the Commonwealth of Pennsylvania,
on Wednesday, April 27, 2005, commencing at 1:21 p.m.,
at the offices of Knox McLaughlin Gornall & Sennett,
PC, 120 West 10th Street, Erie, Pennsylvania 16501.

Reported by Janis L. Ferguson, RPR
Ferguson & Holdnack Reporting, Inc.

Page 22

1 Q. Have we covered the educational type of
2 institutions, all of them?
3 A. To the best of my knowledge.
4 Q. Andromeda, Hermitage, Abraxas, Sarah Reed. Any
5 others?
6 A. Unless you include Rape Crisis, which is now
7 called Crime Victims.
8 Q. Rape Crisis. Good point. She's been there too.
9 Has she been at any medical facilities besides Stairways
10 Base Service Unit and Millcreek Community Hospital?
11 A. No. Not that I remember of.
12 Q. Okay. Is she still taking medication?
13 A. Yes.
14 Q. What is she taking?
15 A. Zyprexa.
16 Q. Zyprexa.
17 A. Yes.
18 Q. Z-Y-P-R-E-X-A or something like that?
19 A. Something like that. I'm not sure.
20 Q. And what else?
21 A. I believe it's birth control pills.
22 Q. Birth control pills?
23 A. Yes. But the birth control pills are basically
24 not for obvious reasons; the birth control. It's because it
25 helps reduce the nose bleeds that she gets from her HHT.

Page 23

1 That's why she gets that medicine.
2 Q. What is the condition? HAT?
3 A. Hemorrhagic hereditary telangiectasia.
4 Q. Boy, oh boy.
5 A. Don't ask me how to spell it. I don't know.
6 Hemorrhagic hereditary telangiectasia. HHT for short. If
7 you want to find good information, I'd go to the website,
8 HHT Foundation. Based out of Cleveland.
9 Q. Let's call it HHT. What is HHT?
10 A. HHT is a bleeding disorder that -- that the
11 capillary veins are extremely close to the -- to the skin.
12 Q. Right.
13 A. And they easily break.
14 Q. Right.
15 A. And it causes -- in the female, it causes -- they
16 usually get the breaking in the skin and underneath the lip.
17 Q. Yes.
18 A. It gets into the lung, the heart, the brain. And
19 it causes a lot of -- a lot of bleeding. Usually treatment
20 is blood transfusion, iron fusion, which is one of the
21 reasons why my wife -- she got -- she got the more severe
22 case.
23 Q. Schelly has that too?
24 A. She has it in a real bad way. And my daughter
25 M[REDACTED] also has it. My son shows the male form of it.

Page 24

1 There are two different types. The male form usually get
2 scars, and the body gets like --
3 Q. Scars easily?
4 A. Yeah, it scars real easy. In the female, they get
5 black and blue marks, usually in the forearms. They can get
6 them in the base of the calves. They black and blue real
7 easily.
8 Q. So she takes birth control pills for that?
9 A. Yeah. Actually, oddly enough, it's a birth
10 control pill, but there's something that creates --
11 Q. Contraction of the capillaries?
12 A. Yeah. And so it -- HHT, you can -- she can be
13 sitting there, and if -- let's say the temperature of this
14 room drops maybe ten -- you know, five, seven degrees, her
15 nose could start bleeding instantly. You know? She has
16 nose bleeds, I think, generally every day.
17 Q. Does she have more problems in some kind of
18 weather than other kinds of weather?
19 A. I'm going to say yes. Because when we were in
20 Arizona, I don't remember her having as many nose bleeds as
21 we do living here.
22 Q. So cold weather seems to aggravate it?
23 A. I think it does a lot. But, now, if you go
24 from -- let's say she goes outside, and -- in my wife's
25 case, anyways, you go from outside, the car is all nice and

Page 25

1 warmed up, you go in there, wham, she's got another nose
2 bleed. And sometimes it bleeds horribly bad.
3 Q. Okay. Is she taking any drugs besides Zyprexa and
4 birth control pills?
5 A. No.
6 Q. Has she in the past taken any other kinds of
7 drugs?
8 A. You mean like street drugs or --
9 Q. No. I don't mean that. I mean prescription
10 drugs. And I have some notes here. Let me look at them.
11 It might help you. My notes say that at some point she was
12 taking Zoloft?
13 A. Yes.
14 Q. For depression and anxiety?
15 A. Yes.
16 Q. Does that ring a bell?
17 A. Yeah, I believe that was --
18 Q. Any idea long how long she was taking Zoloft?
19 A. Not very long. It didn't seem to have the -- it
20 didn't seem to work for her.
21 Q. She was also taking, I think, Celexa, C-E-L-E-X-A.
22 Do you remember that?
23 A. Yeah, I remember that.
24 Q. Is it an anti-depressant?
25 A. I think so, but I'm not a hundred percent sure.

7 (Pages 22 to 25)

<p style="text-align: right;">Page 30</p> <p>1 she was showing you during that period of time?</p> <p>2 A. I'm trying to think, looking back on it. She</p> <p>3 would -- she would -- she kept saying that, I hate all</p> <p>4 humans. I mean, she made it very clear that she didn't like</p> <p>5 humans. That's the way she spoke.</p> <p>6 Q. Before she went to Strong Vincent in seventh</p> <p>7 grade, tell me about her personality. What was --</p> <p>8 A. Before she went to Strong Vincent?</p> <p>9 Q. Yes.</p> <p>10 A. Her personality was gentle. She was easily going</p> <p>11 (sic), she was pleasant.</p> <p>12 Q. Was she talkative, or was she quiet?</p> <p>13 A. I consider R[REDACTED] more of a quiet child. But, I</p> <p>14 mean, if she wanted something or didn't understand</p> <p>15 something, she would more or less -- the teachers would</p> <p>16 always tell me that she would raise her hand, ask questions.</p> <p>17 So she knew that she always had to ask. If she had trouble</p> <p>18 with a math problem, (indicating).</p> <p>19 Q. And before she went to Strong Vincent in seventh</p> <p>20 grade, she had no mental health problems?</p> <p>21 A. No.</p> <p>22 Q. And she was -- she was quiet, but she was gentle</p> <p>23 and pleasant, basically, right?</p> <p>24 A. Yes.</p> <p>25 Q. After the rape, that changed. She became</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Did you approach Vikki Scully, the teacher at</p> <p>2 Strong Vincent, after the rape -- you didn't know a rape had</p> <p>3 happened. But after her mood started going south, did you</p> <p>4 approach Ms. Scully and talk to her about getting into the</p> <p>5 SAP program or getting her some mental health attention at</p> <p>6 school?</p> <p>7 A. Yeah. I -- I had talked to her teacher -- I'm not</p> <p>8 sure which one it was.</p> <p>9 Q. All right.</p> <p>10 A. But I did -- because she was going -- I didn't</p> <p>11 understand what was going on with her. I was concerned,</p> <p>12 because -- I have always been that way with my kids. If</p> <p>13 something doesn't feel right or something doesn't -- I'm on</p> <p>14 top of that. You know, bar none, I'm there.</p> <p>15 Q. Was this after the rape that you did this?</p> <p>16 A. No --</p> <p>17 Q. In retrospect. I know you didn't know a rape</p> <p>18 happened --</p> <p>19 A. No, I didn't know a rape happened. But I think it</p> <p>20 was before that, because she was -- it wasn't in her nature</p> <p>21 to be sad. She just wasn't -- you know, she -- there was a</p> <p>22 period -- when I went to the -- and I think it was -- and I</p> <p>23 think that was the time when I actually talked to a</p> <p>24 teacher -- I mean, I think I did it just before or just</p> <p>25 after. I can't remember the time period on that. But there</p>
<p style="text-align: right;">Page 31</p> <p>1 depressed, angry, withdrawn, combative.</p> <p>2 A. Yes.</p> <p>3 Q. Have I covered it all?</p> <p>4 A. Yeah.</p> <p>5 Q. You find out about it from Janet Woods January 10,</p> <p>6 2002. She goes to Sarah Reed. Did she become worse at</p> <p>7 Sarah Reed or stay about the same?</p> <p>8 A. I think it added to the problem.</p> <p>9 Q. You think going to Sarah Reed added to the</p> <p>10 problem?</p> <p>11 A. In my opinion, yeah.</p> <p>12 Q. Because she resented going to Sarah Reed?</p> <p>13 A. She resented it very deeply.</p> <p>14 Q. Did she articulate that to you? Did she tell you</p> <p>15 that; that she resented going to Sarah Reed?</p> <p>16 A. She said, I don't understand why I'm here. You</p> <p>17 know, she said, I didn't do anything wrong. I mean, she was</p> <p>18 very -- she even told the staff at Sarah Reed that. She</p> <p>19 said, why am I -- you know, she said, I'm not supposed to be</p> <p>20 here. And she -- for a period of time when Sarah Reed</p> <p>21 was -- she was just so -- in a tailspin. And she was angry.</p> <p>22 Q. Richard, did you at some point after the rape</p> <p>23 approach Vikki Scully at Strong Vincent about getting R[REDACTED]</p> <p>24 into the SAP program?</p> <p>25 A. I'm sorry; what?</p>	<p style="text-align: right;">Page 33</p> <p>1 was a -- there was someone I talked to --</p> <p>2 Q. Just before or just after the rape?</p> <p>3 A. No, of the parent/teacher conference.</p> <p>4 Q. Okay.</p> <p>5 A. And I -- she was -- my daughter was like sad. I</p> <p>6 mean, I don't really know how to -- and then -- and they</p> <p>7 said, well we can put her in a program that would -- she</p> <p>8 said she had noticed that R[REDACTED] was getting kind of</p> <p>9 distant.</p> <p>10 Q. Okay. Did they put her in a program?</p> <p>11 A. I don't know. I know I had asked for it, but I</p> <p>12 don't know if it -- and I don't remember if they did or not.</p> <p>13 I do remember that I talked to -- I'm just guessing, but I'm</p> <p>14 not really sure. But I think I talked to Chris Ruhl about</p> <p>15 that, but I'm not really a hundred percent sure if it was</p> <p>16 him I talked to. I know I talked to a guy.</p> <p>17 Q. So you talked to a teacher who was a woman?</p> <p>18 A. No, I went to -- I went physically there to talk</p> <p>19 to someone, and then I talked to someone on the phone.</p> <p>20 Q. Right.</p> <p>21 A. About it.</p> <p>22 Q. And you also talked to Chris Ruhl?</p> <p>23 A. Yeah, I believe -- I believe it was him. I'm not</p> <p>24 a hundred percent sure of that.</p> <p>25 Q. And you don't know if anything happened, not</p>

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD P., by and for :
R. P., and DENISE L., :
by and for K. L., :
Plaintiffs :

v. :

Civil Action No. 03-390
Erie

SCHOOL DISTRICT OF THE CITY :
OF ERIE, PENNSYLVANIA; JANET :
WOODS, Individually and in :
her Capacity as Principal of :
Strong Vincent High School; :
and LINDA L. CAPPABIANCA, :
Individually and in her :
Capacity as Assistant :
Principal of Strong Vincent :
High School, :
Defendants :

Deposition of FRANK SCOZZIE, taken before
and by Janis L. Ferguson, Notary Public in and
for the Commonwealth of Pennsylvania, on Monday,
April 11, 2005, commencing at 3:38 p.m., at the
offices of Knox McLaughlin Gornall & Sennett, PC,
120 West 10th Street, Erie, Pennsylvania 16501.

Reported by Janis L. Ferguson, RPR
Ferguson & Holdnack Reporting, Inc.

<p style="text-align: right;">Page 6</p> <p>1 Q. And how long did you have that job?</p> <p>2 A. About five years.</p> <p>3 Q. And before that then?</p> <p>4 A. Five years as supervisor of special education.</p> <p>5 Q. And before that?</p> <p>6 A. You know what, I lied to you. I was director of</p> <p>7 special education and data services 10 years.</p> <p>8 Q. 10 years. So that takes us back about 20 years or</p> <p>9 so.</p> <p>10 A. Yeah. And then 16 years as teacher.</p> <p>11 Q. 16 years as a teacher. And the events of this</p> <p>12 lawsuit sort of center around 2001, 2002. Tell me from the</p> <p>13 administrative viewpoint -- in other words, from the</p> <p>14 position that you occupied -- what the special education</p> <p>15 department looked like. I guess there were teachers in the</p> <p>16 schools, and then there was a centralized function as well?</p> <p>17 A. The special ed. department had a coordinator who</p> <p>18 worked underneath me and probably was starting to move into</p> <p>19 taking my day-to-day responsibility in that department, by</p> <p>20 the name of Jim Piekanski. There were supervisors of</p> <p>21 special education that were involved; Charlise Moore, Grace</p> <p>22 Sullivan, and Marlene Chrisman. And they each had different</p> <p>23 categories of responsibilities.</p> <p>24 Q. Can you tell me what Charlise Moore's</p> <p>25 responsibilities were.</p>	<p style="text-align: right;">Page 8</p> <p>1 was an unusual situation that required an immediate decision</p> <p>2 or swift action, then I would be directly contacted by the</p> <p>3 building principal. Or in Jim's absence. In some cases</p> <p>4 where it was a dual problem -- for example, an unusual</p> <p>5 circumstance, and as special education student -- not</p> <p>6 necessarily problem, but crisis, they would directly come to</p> <p>7 me.</p> <p>8 Q. Can I derive from that, that you were more</p> <p>9 concerned maybe with policy, except there were certain</p> <p>10 situations that came to your attention that you dealt with</p> <p>11 the situations? Is that what you --</p> <p>12 A. No, I dealt many times with problems that were not</p> <p>13 satisfied at the principal level, anyway. That's one of my</p> <p>14 responsibilities. So if you were mad at the principal, and</p> <p>15 you came downtown, it's a good possibility you got to see</p> <p>16 me.</p> <p>17 Q. And what is the -- sort of the reporting</p> <p>18 relationship between you and the principal when you're</p> <p>19 wearing your hat as director of special ed.?</p> <p>20 A. Well, the principal is working directly for Dr. --</p> <p>21 at the time, I believe Dr. Linden was the assistant -- was</p> <p>22 my partner in crime there. And she actually, in this</p> <p>23 situation, if I -- are you speaking particularly to Strong</p> <p>24 Vincent, or any school?</p> <p>25 Q. Well, yeah, let's just -- we can direct our</p>
<p style="text-align: right;">Page 7</p> <p>1 A. She would have been in charge of the middle school</p> <p>2 programs particularly. And she also would have had what are</p> <p>3 known as the life skills support students under her</p> <p>4 responsibility.</p> <p>5 Q. What about Marlene Chrisman?</p> <p>6 A. She would have dealt with the senior high schools</p> <p>7 and particularly with the emotional support students.</p> <p>8 Q. And Mr. Sullivan?</p> <p>9 A. He had the elementary schools. And Mr. Piekanski</p> <p>10 took care of the gifted and the speech.</p> <p>11 Q. And what is Mr. Piekanski's current title?</p> <p>12 A. He is co-director of special education and</p> <p>13 director of early childhood education.</p> <p>14 Q. When you were the -- let's see. You were the</p> <p>15 assistant to the superintendent in 2000? I guess I'm just</p> <p>16 trying to figure out --</p> <p>17 A. I was an assistant to the superintendent in 2000.</p> <p>18 Q. In 2000. In addition to being director of special</p> <p>19 ed.?</p> <p>20 A. Right. That was a title that had not been</p> <p>21 relinquished from me.</p> <p>22 Q. Okay. And what were your responsibilities as a</p> <p>23 director of special ed.?</p> <p>24 A. Well, in situations where -- as I said,</p> <p>25 Mr. Piekanski was involved in the day-to-day. But if there</p>	<p style="text-align: right;">Page 9</p> <p>1 attention to Strong Vincent.</p> <p>2 A. Okay. The senior high principals would directly</p> <p>3 be accountable, if you were talking about from a ratings</p> <p>4 standpoint, to Dr. Linden. That would have been his</p> <p>5 responsibility to do that.</p> <p>6 However, in issues where there were problems,</p> <p>7 where there were certain circumstances that were going to be</p> <p>8 administratively dealt with downtown, it would be a good</p> <p>9 possibility that I would be more accessible to get to the</p> <p>10 issue, so there really wasn't a line as to who you called.</p> <p>11 If there was an emergency, you could call Frank Scozzie, you</p> <p>12 could call John Linden. It didn't really much matter.</p> <p>13 Q. Okay. And then in this particular case, do you</p> <p>14 recall the events involving my clients, R [REDACTED] P [REDACTED] and</p> <p>15 K [REDACTED] L [REDACTED]? Do you recall how they came to your</p> <p>16 attention?</p> <p>17 A. I received a phone call from Jan Woods, the</p> <p>18 principal of Strong Vincent, alerting me to what she</p> <p>19 perceived to be a situation that was developing that needed</p> <p>20 to be -- we needed -- we needed to be made aware of.</p> <p>21 Q. Okay.</p> <p>22 A. She didn't know where it was going to go, but</p> <p>23 there was some indications, in her mind anyway, that it was</p> <p>24 a situation that would need some tending to.</p> <p>25 Q. Okay. And so tell me what she told you.</p>

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1 A. She told me that there was -- and, again, this is
 2 a very difficult time. I'm going off a recollection here.
 3 That there was a problem with two students and that it had
 4 occurred off grounds. And she was very, very concerned
 5 about the two students. The mental well-being.
 6 In addition to that, she wanted to be aggressive
 7 in dealing with everybody involved on the other team here.
 8 But her immediate concern was for the personal well-being of
 9 the two young ladies. And there was a sense of urgency in
 10 her voice.
 11 Q. But did she describe what -- what was the
 12 situation that she described to you?
 13 A. She said that there were allegations being made of
 14 sexual improprieties that had occurred at a Laundromat which
 15 was located off the school property, but very close to
 16 Strong Vincent, and that she was looking into it. But in
 17 the meantime, she had concerns about getting the young girls
 18 some help to deal with the situation while we were
 19 investigating.
 20 Q. And you indicated you're going from recollection
 21 here. Did you make notes about this --
 22 A. You know, I may have, but to be very honest with
 23 you, I looked, and I can't find them, if I did.
 24 Q. Okay. She indicated that -- we talked to
 25 Miss Woods already, and she indicated that she also talked

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1 were both special ed. students; is that right?
 2 A. That's correct.
 3 Q. So that would mean that there -- obviously, that
 4 would mean there would be special education files about
 5 these students.
 6 A. Um-hum.
 7 Q. You have to say yes or no.
 8 A. Yes, I'm sorry.
 9 Q. That's okay. Would those files be in the central
 10 office where you're located, or at the school, or would
 11 there be two files?
 12 A. There would be two files.
 13 Q. And did you -- did you or did anyone at your
 14 behest in the central office look at the students' files?
 15 A. I'm sure we did.
 16 Q. Well, specifically did you look at the files?
 17 A. I can't recall that.
 18 Q. And so Miss Woods tells you -- gives you a call,
 19 says -- what you can recall is she said that there were
 20 sexual improprieties.
 21 A. That's correct.
 22 Q. That's what you can recall today.
 23 A. Yes.
 24 Q. She says she's concerned about the girls.
 25 A. She states the situation, where it occurred, and

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1 to Mr. Linden.
 2 A. We would have -- she probably did that, and I
 3 probably did that.
 4 Q. Okay. And did you give her -- what instructions
 5 do you recall giving her when she first contacted you?
 6 A. I don't know that I gave her any. I think I
 7 listened to what she said she was doing. I think I agreed
 8 with that. I said that I would assist her in getting an
 9 intervention that could assist with the mental well-being of
 10 these -- so that the mental well-being of these two female
 11 students would be well taken care of.
 12 (Discussion held off the record.)
 13 Q. So how many conversations do you think you had
 14 with Miss Woods about what she was doing?
 15 A. I would assume, knowing my style, that I probably
 16 was in touch with her pretty close to daily after this
 17 became apparent to me.
 18 Q. And you indicated that she said that there was a
 19 sexual -- allegation of sexual improprieties. Was she more
 20 explicit in terms of describing what happened?
 21 A. I can't recall that. I -- I deal with the issues.
 22 I don't deal with the delivery. I -- I knew it was a
 23 serious problem. I can't recall how she described it to me,
 24 really.
 25 Q. Okay. Now, what resources do you have -- these

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1 then she said, I am concerned that both of these young girls
 2 need help. As I recall, it was an indication to me that she
 3 felt that their self-concepts were significantly damaged and
 4 that there was the potential that these girls could hurt
 5 themselves. And, that, I do recall.
 6 Q. Now, what resources are there available in the
 7 community for children who might -- whose self-concept is
 8 significantly damaged? Are there community resources
 9 available for that?
 10 A. Oh, there are certainly a lot of community
 11 resources. The District uses the program particularly at
 12 Sarah Reed. There's a therapeutic program there that we
 13 use. And they have the intervention and the people
 14 available to work with the student, the families, tie it all
 15 together, and basically to see what's going on. It's a
 16 program we recommend frequently. It's a program that many
 17 of the psychiatrists that work at the School District
 18 recommend frequently.
 19 Q. What does the program cost the school?
 20 A. I think we pay them along the lines of -- it's
 21 tough to say in that day and age. But we probably paid them
 22 about \$45 a day to do something like that.
 23 MR. MARNEN: Per student?
 24 THE WITNESS: Per student.
 25 A. Each program varies a little bit. There's a few

4 (Pages 10 to 13)

<p style="text-align: right;">Page 14</p> <p>1 different programs there.</p> <p>2 Q. What programs do they have at Sarah Reed?</p> <p>3 A. They have a partial hospitalization program, they</p> <p>4 have an alternative education program, which is primarily</p> <p>5 for regular class students. They have a therapeutic</p> <p>6 program, behavior mod.-type program, which is what we would</p> <p>7 be looking at in this situation, and they do an early</p> <p>8 intervention program for us also.</p> <p>9 Q. Now, the behavior modification program, tell me</p> <p>10 what that program consists of.</p> <p>11 A. Well, it's a program where there is psychiatric</p> <p>12 help available if they need it. There are Master-level</p> <p>13 therapists that are there available. There are small class</p> <p>14 sizes. There is a family component, where they work with</p> <p>15 the families to kind of tie everything together, because</p> <p>16 many times we can solve an issue in the school, and there</p> <p>17 still remains a problem at home, and the parents need to</p> <p>18 know about that. And we need the parents to partner with</p> <p>19 us. And they have a strong component that does that.</p> <p>20 Q. Okay.</p> <p>21 A. And there is the educational component that</p> <p>22 carries on the IEP.</p> <p>23 Q. So behavior modifications, there is a psychiatric</p> <p>24 component. Master's with counseling, you said?</p> <p>25 A. There is a Master-level therapist program.</p>	<p style="text-align: right;">Page 16</p> <p>1 situations? It would depend on what the students' needs</p> <p>2 are. We try to find -- we think out of the box. I don't</p> <p>3 want to say that we're limited, but we try to find a program</p> <p>4 that meets the needs that are presented to us. And then we</p> <p>5 make that recommendation. Then a team looks at that. We</p> <p>6 put nobody anywhere, but we use as many resources as we can</p> <p>7 get our hands on.</p> <p>8 Q. Jim's already marked as Exhibit 1 a document that</p> <p>9 I'm not ready to get to yet so I'm going to mark this as</p> <p>10 Exhibit 2.</p> <p>11 (Scozzie Deposition Exhibits 1 and 2</p> <p>12 marked for identification.)</p> <p>13 MR. OLDS: And just for the record, that is</p> <p>14 Bates-stamped 398 to 427. Is that right?</p> <p>15 THE WITNESS: I'm not sure I understand what</p> <p>16 you're --</p> <p>17 MR. OLDS: No, I'm asking Jim. I'm just getting a</p> <p>18 little stipulation of counsel here.</p> <p>19 MR. MARNEN: E-398 through E-427. Is that what</p> <p>20 you said?</p> <p>21 MR. OLDS: Yes.</p> <p>22 MR. MARNEN: Except the page before E-427 doesn't</p> <p>23 have a Bates stamp on it.</p> <p>24 MR. OLDS: Let's see what that is. Maybe it's</p> <p>25 just a blank page.</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. Master's level therapist.</p> <p>2 A. They have several Master's level therapists.</p> <p>3 Q. And what is the partial hospitalization program?</p> <p>4 A. That's a program they wouldn't have qualified for</p> <p>5 by age, because they were not 14 years of age. But it is a</p> <p>6 program, again, that has a lot of these same therapies,</p> <p>7 intensive therapies, that are supported more clinically.</p> <p>8 The psychiatrist is more involved in the program.</p> <p>9 Q. Okay. So they weren't old enough for the partial</p> <p>10 hospitalization program.</p> <p>11 A. Correct.</p> <p>12 Q. Now, you have to -- as the director of special ed.</p> <p>13 for the Erie School District, there is certain constraints</p> <p>14 that are placed upon you in terms of where you can place</p> <p>15 kids; is that right?</p> <p>16 A. I don't know that there's constraints put on me</p> <p>17 about where I can place them. There's certainly constraints</p> <p>18 placed on about who would take them and who we have</p> <p>19 partnerships with. I guess, you know, like if I wanted to</p> <p>20 put somebody into the Western Psychiatric program down at</p> <p>21 Pittsburgh, we could recommend -- we could, you know, kind</p> <p>22 of try to do that. We are just -- we make -- we cannot</p> <p>23 place anybody anywhere. An IEP team does that.</p> <p>24 Q. Right.</p> <p>25 A. And, you know, but are there other resources and</p>	<p style="text-align: right;">Page 17</p> <p>1 MR. MARNEN: Maybe it was just copied crooked.</p> <p>2 (Discussion held off the record.)</p> <p>3 Q. Now, I think that when I was talking about limits</p> <p>4 that might be placed on you, you have to offer an education</p> <p>5 to a child in the least-restrictive environment. Isn't that</p> <p>6 true?</p> <p>7 A. That's true.</p> <p>8 Q. And, obviously, the least-restrictive environment</p> <p>9 is the -- maybe you could help me. The first would just be</p> <p>10 the regular classroom, right?</p> <p>11 A. Right.</p> <p>12 Q. And then the next least-restrictive environment</p> <p>13 would be -- what would be the next level?</p> <p>14 A. The -- a regular classroom with intervention.</p> <p>15 Q. Okay. And then what would be the next level?</p> <p>16 A. This would be perhaps a split program; special ed.</p> <p>17 and a regular classroom.</p> <p>18 Q. In the same school, right?</p> <p>19 A. Right.</p> <p>20 Q. And then --</p> <p>21 A. Then a special ed. classroom totally.</p> <p>22 Q. And then what would be the next level?</p> <p>23 A. Well, that -- a full-time special ed. program is</p> <p>24 the most restrictive. And then -- in the building. And</p> <p>25 then a full-time special ed. program outside of the</p>

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1 building, where there is actually no capability to
 2 participate with regular programs, would be the actual least
 3 restrictive.
 4 Q. Okay. Now, Sarah Reed isn't part of the Erie
 5 School District, is it, or is it?
 6 A. It is not part of the Erie School District.
 7 Q. Okay. So a placement in Sarah Reed is a placement
 8 outside of the School District. Is that right?
 9 A. That's correct.
 10 Q. So in that continuum that we just went through,
 11 where does -- where would Sarah Reed -- would it even be in
 12 that continuum?
 13 A. Yeah. It's a restrictive placement.
 14 Q. A restrictive placement?
 15 A. Right.
 16 Q. It's below special ed. classes in the building; is
 17 that right? It's more restrictive than special ed. in the
 18 building.
 19 A. Not necessarily, because -- and I would say I
 20 misspoke. There are regular students that are participating
 21 at Sarah Reed, so there is the participation level with
 22 regular students there. When I say "regular", I'm talking
 23 about from an educational component standpoint. They are
 24 not categorized as special education on an IEP.
 25 Q. Okay. Those students are there because they have

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1 regular -- with the regular education component of the Erie
 2 School District, not the special education program.
 3 Q. So certain regular education -- certain students
 4 who receive regular education from the Erie School District
 5 will go to Sarah Reed for alternative -- for an alternative
 6 education program.
 7 A. That is correct.
 8 Q. And are those students referred to Sarah Reed as a
 9 result of violating the Discipline Code?
 10 A. Can be.
 11 Q. What other reasons might they be sent to Sarah
 12 Reed?
 13 A. Unusual behavior has been exhibited. Parent comes
 14 in with a significant concern of something that's going on
 15 at home that has been corroborated by the student's teacher,
 16 and then all of a sudden unusual behaviors are occurring.
 17 Q. And this might be unusual behavior that is not
 18 necessarily a discipline problem, or would it --
 19 A. Might be both. It could be a discipline problem.
 20 It could be a discipline problem or just could be a bizarre
 21 behavior. I guess in a -- in a classroom setting, it could
 22 be perceived as a discipline problem, depending on -- I
 23 mean, there are just so many things that can occur, it's
 24 very difficult to try to be specific on this thing.
 25 But Sarah Reed basically deals with students who

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1 discipline problems; is that right?
 2 A. Some are there for that.
 3 Q. We had a conversation with Miss Woods, and I'm not
 4 sure it was exactly clear, because the term "alternative
 5 education program" appears to be used in several different
 6 ways in the documents. And maybe you could tell me -- she
 7 said that if I used AEP, the initials AEP, that would
 8 signify something relative to the Erie School District. Is
 9 that --
 10 A. Well, first of all, I guess "alternative" is an
 11 overused word and probably needs to be categorized, because
 12 there are certainly different levels of alternative.
 13 What she particularly was trying to describe to
 14 you is that Erie School District partners with Perseus House
 15 to run an alternative education program. And students are
 16 sent there for a whole litany of reasons. But they are
 17 categorized as being in an AEP program.
 18 Q. Now, did Sarah Reed ever partner with Erie
 19 concerning an alternative --
 20 A. Sarah Reed has a program --
 21 Q. You have to let me finish.
 22 A. Sorry.
 23 Q. -- partner with the Erie School District
 24 concerning providing an alternative education program?
 25 A. They have a partnership of that sort with the

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1 have mental health issues primarily, as far as special ed.
 2 goes. So I can be specific with that.
 3 Q. Okay. Well, part of Sarah Reed does. But then
 4 part of it also deals with students who are behavioral
 5 problems at the Erie School District, right?
 6 A. Elementary students.
 7 Q. Elementary students. Does that mean one through
 8 eight or one through six?
 9 A. One through eight.
 10 Q. So one through eight kids who have disciplinary
 11 problems in the Erie School District might be referred to
 12 Sarah Reed.
 13 A. Right.
 14 Q. And there is a contract between Sarah Reed and
 15 Erie School District for Sarah Reed to provide an
 16 alternative education program for those students.
 17 A. That is correct.
 18 Q. And then is there also contracts between Sarah
 19 Reed and the Erie School District to provide alternative
 20 education for other students?
 21 A. There is a contract with Sarah Reed to provide
 22 partial hospitalization programming and therapeutic
 23 programs, as I earlier described to you.
 24 Q. Therapeutic.
 25 A. I guess you would call -- anytime you have a

6 (Pages 18 to 21)

<p style="text-align: right;">Page 22</p> <p>1 program where you are delivering outside of the school in</p> <p>2 another setting, I guess you would call it an alternative</p> <p>3 setting. We probably do too much of that, but that</p> <p>4 currently is something that is the way the structure exists.</p> <p>5 Q. Well, I guess that, you know, if -- the</p> <p>6 alternative education program, is that a term of art, or is</p> <p>7 that just sort of a generic term that is used to describe</p> <p>8 any placement that's placed outside of this Erie School</p> <p>9 District?</p> <p>10 A. I guess initially it was supposed to be a term of</p> <p>11 art, but it is now a generic comprehension; that if you are</p> <p>12 not going to the Erie School District, you're going to an</p> <p>13 alternative placement. And parents will say that. We have</p> <p>14 students that are going to charter schools. The families</p> <p>15 will say they are in an alternative school. I mean, an</p> <p>16 alternative to the Erie School District.</p> <p>17 (Discussion held off the record.)</p> <p>18 Q. Would you consider that a placement in -- of a</p> <p>19 special ed. student in Sarah Reed is more restrictive than a</p> <p>20 placement of special ed. student in one of the neighborhood</p> <p>21 schools on the continuum of the least restrictive --</p> <p>22 A. Well, to the external -- to an external individual</p> <p>23 from an educational standpoint, I guess the answer to that</p> <p>24 would be yes. From a capability of benefiting from the</p> <p>25 educational program, Sarah Reed generally would be, before</p>	<p style="text-align: right;">Page 24</p> <p>1 A. Um-hum.</p> <p>2 Q. She's an Erie School District employee?</p> <p>3 A. She is.</p> <p>4 Q. And do you recall receiving this memo?</p> <p>5 A. Um-hum.</p> <p>6 Q. Okay. And this says -- this memo --</p> <p>7 MR. MARNEN: Yes or no?</p> <p>8 THE WITNESS: I apologize.</p> <p>9 MR. MARNEN: That's all right.</p> <p>10 A. Yes.</p> <p>11 Q. "The purpose of this memo is to provide</p> <p>12 information on two students who are being referred to Sarah</p> <p>13 Reed per Frank Scozzie. Both girls were involved in a</p> <p>14 recent situation at S.V. of the nature and intensity that</p> <p>15 staff, including Mr. Scozzie, feels this level of</p> <p>16 intervention is essential. Both girls are under the age of</p> <p>17 14 and, therefore, not eligible for the adolescent partial</p> <p>18 program."</p> <p>19 I take it that Miss Chrisman wrote that. To your</p> <p>20 knowledge, is that an accurate statement or an accurate</p> <p>21 description of how the girls got referred to Sarah Reed?</p> <p>22 A. Yes.</p> <p>23 Q. Then it says at the bottom, "It is my</p> <p>24 understanding that Mr. Scozzie would like the girls to begin</p> <p>25 this placement as soon as possible. Please contact Charlise</p>
<p style="text-align: right;">Page 23</p> <p>1 we place them there, the appropriate placement. Therefore,</p> <p>2 it would be the least-restrictive placement.</p> <p>3 We would not put somebody there until a team had</p> <p>4 looked at that and realized that -- from what they were</p> <p>5 capable of benefiting at that time educationally, because of</p> <p>6 whatever the reasons, that would be the least-restrictive</p> <p>7 environment for them.</p> <p>8 Q. Okay. So, now, the therapeutic program offered by</p> <p>9 Sarah Reed, is it simply a behavior modification program, or</p> <p>10 are there other components to the therapeutic program?</p> <p>11 A. There is an educational component.</p> <p>12 Q. But the therapy is provided -- it's deemed</p> <p>13 necessary because there's a behavioral issue?</p> <p>14 A. Because there is an emotional need, because there</p> <p>15 is a -- that could -- would -- depending on the situation,</p> <p>16 it could be emotional need, behavioral issue. Could be a</p> <p>17 host of reasons that the team, you know, examines.</p> <p>18 Q. Okay. I'm going to refer you to a document that</p> <p>19 was part of the documents marked Woods No. 4. It's Erie</p> <p>20 Bates stamp 446, and it's a memo dated 1/14/02 from Marlene</p> <p>21 Chrisman. You are shown as receiving a copy of this</p> <p>22 January 15th, '02 memo from -- to Jo Barker from Marlene</p> <p>23 Chrisman. And who is Jo Barker?</p> <p>24 A. Director of elementary and middle school programs.</p> <p>25 Q. Is that an Erie School program?</p>	<p style="text-align: right;">Page 25</p> <p>1 Moore or myself to assist in this process." And this is</p> <p>2 a -- the subject of this memo is B. Mod. Referral. So that</p> <p>3 must mean Behavior Modification Referrals.</p> <p>4 A. That's correct.</p> <p>5 Q. Why would Jo Barker need this information?</p> <p>6 A. As I told you before, anything we do with Sarah</p> <p>7 Reed, we do through a team.</p> <p>8 Q. Okay.</p> <p>9 A. And we just -- Jo basically is the liaison between</p> <p>10 Sarah Reed and the School District, controlling the number</p> <p>11 of students that go to the facility, so that we don't exceed</p> <p>12 a particular number. And she would have gotten it for that</p> <p>13 reason.</p> <p>14 Q. Okay. So she's keeping count of how many students</p> <p>15 go to Sarah Reed.</p> <p>16 A. Right.</p> <p>17 Q. Do you know what that number is?</p> <p>18 A. I think we probably generally in various programs</p> <p>19 have 50 -- a cap of about 50 students there.</p> <p>20 Q. And of those 50 students, how many might be in the</p> <p>21 therapeutic program? The behavior modification therapeutic</p> <p>22 program.</p> <p>23 A. I'm going to say 12. But that -- that could vary.</p> <p>24 But it's in that zone.</p> <p>25 Q. So I'm looking at the documents that have been</p>

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1 marked as Exhibit 1. And the first part of those documents
 2 are the IEP for R [REDACTED] P [REDACTED] stemming from a 7/23/01 NORA
 3 and IEP. But what I would like to do is draw your attention
 4 to the document numbered 419.
 5 A. I don't think I have that one.
 6 Q. It's in Exhibit 2.
 7 A. Okay. That, I do have it.
 8 Q. It would be 419.
 9 MR. MARNEN: Woods 2 or Scozzie 2?
 10 MR. OLDS: Scozzie 2.
 11 Q. Can you tell me what this is.
 12 A. It's a revision of the IEP.
 13 Q. And the date is 1/18/02?
 14 A. Yes.
 15 Q. Okay. Now, that, actually -- is this the
 16 indication that an IEP team met?
 17 A. It's an indication that a team met to review
 18 the -- a group met to review the IEP.
 19 Q. Okay. The memo that we had previously looked at,
 20 which was part of Woods 4 and dated 1/15/02, is an
 21 indication that you -- apparently you had decided to send
 22 the girls to Sarah Reed as of January 15th, '02. Is that
 23 right?
 24 A. I had been requested to do that. After I listened
 25 to her request and the reason for her request, I then began

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1 to move on that placement. Yes, I did.
 2 Q. Okay. So when you say "her request", you're
 3 talking about Mrs. Woods?
 4 A. That's correct.
 5 Q. But I thought I heard you say that it had to be
 6 the IEP team that made the recommendation.
 7 A. As I said, I started to move on it. That's the
 8 process, I started it. I called the supervisor, who then
 9 would gather everybody together and start getting, you know,
 10 all the paperwork done and decision-making done. All I can
 11 do is assist with the placements. If Sarah Reed were to say
 12 I don't have room or I'm going to take a longer period of
 13 time, the IEP team had to make that ultimate decision, not
 14 me.
 15 Q. So when -- going back to this January 15th,
 16 '02 memo, in which Miss Chrisman writes, "The purpose of
 17 this memo is to provide information on two students who are
 18 being referred to Sarah Reed per Frank Scozzie," is that an
 19 inaccurate statement? You weren't referring them to Sarah
 20 Reed or were you referring them to Sarah Reed?
 21 A. I was referring -- what she means by that is that
 22 I have called her and said, listen, take a look at these two
 23 kids for Sarah Reed. And the general statement might have
 24 been, well, it's mid year, there's no -- there's no room at
 25 the inn or we can't get them in right now, and my calling

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1 her tells her that if the IEP team so deemed, I would see to
 2 it that there was an accommodation made by Sarah Reed. That
 3 would be my involvement to that.
 4 Q. It's not a -- but you don't -- you wouldn't make a
 5 referral of K [REDACTED] and R [REDACTED] to Sarah Reed without some
 6 kind of in-depth information, would you?
 7 A. As I recall, Jan Woods told me there were issues
 8 there that she was concerned that these young girls were
 9 going to hurt themselves, and that that was an issue which
 10 is something that I would have brought to the attention of
 11 the supervisor and said, listen, this is the reason why I
 12 want to move on this quickly.
 13 But when I get a sense of urgency -- when you deal
 14 with a principal, and they call you up, you get to know
 15 them. You get to know when their reactions are just normal
 16 and when it's abnormal. Jan Woods expressed to me
 17 significant concern about the mental health of these two
 18 young ladies in a way that caused me to take a look at -- or
 19 have the supervisor take a look at -- I can't recall at the
 20 time -- and we would have seen whether there would be a
 21 potential that might require an immediate intervention, and
 22 I think that we did do that and we did see that.
 23 And, again, there are a lot of safeguards in the
 24 special education process. If we were overreacting, the
 25 team would have looked at that and said, no, that's not

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1 appropriate.
 2 So when you start this process, it's not -- it's
 3 not a daring move, because I might think and Jan Woods might
 4 think, but the team might say no. So there's checks and
 5 balances built in the system.
 6 Q. Okay. Let's go back to Item No. 419 here, Page
 7 No. 419.
 8 MR. MARNEN: Scozzie 2?
 9 MR. OLDS: Yes, Scozzie 2. Bates stamp 419. This
 10 is the IEP revision review.
 11 THE WITNESS: Yes.
 12 Q. So the IEP team met here and the objective
 13 benchmark is quote, "Develop consistent patterns of
 14 appropriate behavior through a program of therapeutic
 15 support."
 16 When language is placed in the objective benchmark
 17 part of an IEP revision review document, what is the
 18 significance of that?
 19 A. Well, we want to alter some type of behavior,
 20 whether it be a person who might be spouting off
 21 belligerently, a person who threatens to harm themselves, a
 22 person who threatens to harm others. And, again, I'm being
 23 general, not specific here.
 24 Q. Right.
 25 A. But that's the kind of technique we utilize to try

8 (Pages 26 to 29)

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA
3 RICHARD P., BY AND FOR
4 R. P., AND DENISE L., BY
5 AND FOR K. L.,
6 Plaintiffs
7 vs
8 Civil
9 SCHOOL DISTRICT OF THE
10 CITY OF ERIE, PENNSYLVANIA;
11 JANET WOODS, INDIVIDUALLY
12 and in her Capacity as Principal
13 of Strong Vincent High School;
14 and LINDA L. CAPPABIANCA,
15 Individually and in her Capacity
16 as Assistant Principal of Strong
17 Vincent High School,
18 Defendants
19
20 Deposition of FRANK SCOZZIE, taken before and
21 by Linda K. Rogers, Commissioner of Deeds in the
22 Commonwealth of Pennsylvania and Notary Public in
23 the State of New York, on Wednesday, May 18, 2005,
24 commencing at 12:10 p.m., at the law offices of
25 Knox, McLaughlin, Gornall & Sennett, 120 West 10th
Street, Erie, Pennsylvania.

Page 1

1 For the Plaintiffs:
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13 ***
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Page 2

1 FRANK SCOZZIE, first having
2 been duly sworn, testified as follows:
3
4 DIRECT EXAMINATION
5 BY MR. OLDS:
6
7 Q. Mr. Scozzie, I wanted to talk to you about the
8 issue of records and the change in school district policy
9 concerning retention of records.
10 A. Okay.
11 Q. As I understand it, at some point there was a
12 change in policy concerning discipline records?
13 A. Regarding?
14 Q. Destruction of discipline records.
15 A. That very well may be true. Was that when I was
16 running the department or.
17 Q. I don't know. I guess I'm asking you. Do you
18 know if there has been -- if the Erie School District has
19 changed its policy concerning discipline records and
20 retention of discipline records?
21 A. I don't believe that I am aware of that. I think
22 we follow a certain policy. It seems to me that there was a
23 situation that we decided that certain records would be kept
24 in certain areas. And we do review what is kept under lock
25 and key, and what is kept out for daily perusal. And we
Page 3

1 do -- Dr. Tempestini, who is our child study director, does
2 control what is destroyed and what is not by following
3 policies. I would say she may have made me aware that she
4 made a change or there was a change. I can't say that it
5 was something that I'm -- that's off the top of my head.
6 That doesn't mean it didn't occur.
7 Q. Well, let me -- we marked, I guess this was marked
8 as Defendants' Exhibit C, which was middle and high school
9 discipline policy for 2001-2002, and at document Bate stamp
10 102. In the introduction it says, student discipline
11 records will remain a part of the student's permit files.
12 When a student transfers to this school district a certified
13 copy of the student's discipline record is required and
14 obtained from the school entity from which the student is
15 transferring. The same is true when a student transfers out
16 of the Erie School District. This record shall be
17 maintained as part of the student's permanent discipline
18 record and shall be made available for inspection as
19 required by law. Do you know if that policy has changed?
20 A. As I said, this policy is reviewed yearly, there
21 probably are yearly changes. Is that a major change, again,
22 that is something someone else does.
23 Q. Who might that be?
24 A. I mean, the maintenance of records are done by two
25 people. The director of special education, Jim Pacansky,
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1 parents?
2 A. I would imagine -- I would hope it would be in a
3 reasonable fashion. I'm sure she needed to sort through
4 some things. I am not going to speak for her, but it would
5 be my hope that she would do it as quickly as she had
6 determined what had actually occurred in the situation.
7 It's not good to call a parent and say, listen, I just heard
8 this and I am just going to start -- because it sometimes
9 turns out not to be true or not to be factual. So you have
10 to make sure you have the facts in order and then the call
11 should be made as soon as that is determined.
12 Q. Did either -- did you ever talk to
13 Miss Cappabianca about what happened to K [REDACTED] and R [REDACTED]
14 A. I believe my conversations were with Jan Woods,
15 but I can't say I never did speak to Miss Cappabianca, I may
16 have.
17 Q. But you don't recall what you said to her, if you
18 did speak to her? Or do you have a recollection of what was
19 said?
20 A. Let me, again, say that whether it came from both
21 Cappabianca and Woods or Woods, which is my recollection,
22 there was a certainty that mental health intervention needed
23 to be invoked immediately, as quickly as we could do it.
24 Q. And what do you recall the information that they
25 gave you that indicated that mental health had to be

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1 invoked?
2 A. I think Jan was concerned that there could be some
3 issue with the individual student hurting herself, doing
4 some damage to her body, to herself.
5 Q. R [REDACTED] and K [REDACTED] were both special ed.
6 students, was there any discussion about doing an evaluation
7 or reevaluation of their condition?
8 A. Well, I guess there's two things. When someone
9 tells me about an emergency situation, I'm not going to sit
10 back and say, well, let's take about three weeks to do an
11 evaluation of the situation. The processes will take care
12 of themselves before the placement could be done that had to
13 be done, things had to be done.
14 Q. What do you mean before what had to be done?
15 A. There was a period of time where a new NORA would
16 be issued. And the department would -- or a placement
17 letter would be done. And the department would do an
18 evaluation, that would be a departmental thing before the
19 placement is done to make sure all the things you're talking
20 about were done. My assessment at that time was if it took
21 two weeks traditionally to go to Sarah Reed, she gave me a
22 sense of urgency based on what I'm telling you that it
23 couldn't be two weeks. This needed to be done immediately,
24 and I acquiesced to what she had requested.
25 The other issues of whether the safeguards and all

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1 that other thing, I have every confidence that the
2 department would take care of those. If necessary a new
3 NORA, a new ER, rather an evaluation needs to be done. But
4 Sarah Reed is very good before they do an intake they know
5 the rules.
6 Q. I have several questions to follow up on that
7 answer. Number one, when you refer to the department, are
8 you referring to the special education department?
9 A. What I'm referring to there would be the special
10 ed. department in conjunction with the child study which I
11 referred to earlier that would be Marianne Tempestini's
12 pupil personnel services department. But the acronyms have
13 changed through the years, but you still use the same
14 terminology. But, yes, they would work together to see that
15 all the necessary paperwork. That is somebody else's job,
16 at that point I was not doing an assessment, worrying about
17 who was going to do the paperwork. I was worried about Jan
18 Woods had described the situation with a sense of urgency,
19 my function at that point was to get the process going so
20 that -- assuming that the paperwork was done -- the
21 placement was capable of being done.
22 Q. I think you made a statement that Jan Woods
23 conveyed the notion to you it couldn't wait two weeks for
24 this to be done.
25 A. No, I didn't say -- what I said was, it could wait

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1 two -- what she was saying that this needs to be done right
2 now. Jan has -- many principals will call with situations,
3 and you have to sort through that. Is this a real
4 situation. And I could tell by her tone of voice, and her
5 sincerity that she really believed that this needed
6 immediate attention.
7 Q. I would assume that you have visited or been
8 present at Sarah Reed Children's Center?
9 A. Yes.
10 Q. And have you observed their classroom settings and
11 stuff?
12 A. I have on occasion.
13 Q. I mean in terms of an emergency situation what
14 would you expect that Sarah Reed could do on an emergency
15 basis?
16 A. I told you before about Sarah Reed, they have a
17 lot of mental health specialists there that are trained in
18 looking for certain types of behavior, that would be one
19 thing. Number two, it is a structural change in
20 environment. There is a significant difference between
21 being with 800 students in a -- I don't how many square foot
22 Strong Vincent is, but it's a very large facility, and going
23 to a school that is much smaller with a much smaller class
24 size and many more adults paying attention to your actions.
25 You get a lot more attention, lot smaller class size and the

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1 level of the expertise of the people that are dealing with
2 you are more attuned to mental health issues.
3 Q. Do you know whether Janet Woods had any background
4 that she could diagnose mental health problems? She's just
5 an educator, right?
6 A. She's an educator. Obviously when you work in a
7 building of that nature and you can see the differences in
8 cases, and you can certainly have a good professional
9 judgment in that sense, there's a professional staff there
10 that has some skill level.
11 Q. You're talking about Strong Vincent?
12 A. Um-hmm -- yes.
13 Q. It is fair to say that -- it is fair to say that
14 typically the children that are referred to Sarah Reed have
15 very severe behavioral problems?
16 A. Not always. There's a range of what -- I mean,
17 there are students who for some reason are in need of a
18 level of expertise that the district doesn't have the
19 ability to provide for a period of time.
20 Q. I think you mentioned something about that Sarah
21 Reed intake knew the procedures, you also made a reference
22 to their intake. What did you expect Sarah Reed's intake to
23 do.
24 A. Sarah Reed took a look at this situation and the
25 student. And when they were sitting down talking to the

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1 student and doing the assessment, they're not going to
2 say -- if they see a student doesn't belong there or there's
3 no need for their type of intervention -- there's checks and
4 balances in there, that's why I have a tremendous comfort
5 level. The staff is a very professional staff. If they
6 would have done the intake and called me back and said,
7 listen, neither of these students should be leaving Strong
8 Vincent, they belong in their main school there, you need to
9 look internally rather than externally, we would have done
10 that.
11 Q. Once these students went to Sarah Reed, did you
12 receive any information or feedback or reports from Sarah
13 Reed about their progress?
14 A. Did I personally?
15 Q. Yes.
16 A. No.
17 Q. You wouldn't expect to, that's not the way the
18 system works; is that correct?
19 A. I am not the daily practitioners that would be
20 working with students, that's not my function.
21 Q. Okay. After they were referred to Sarah Reed,
22 R [REDACTED] and K [REDACTED], were you involved at all in the
23 consideration of whether to discipline the students who
24 assaulted them?
25 A. No.

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1 Q. And that's because that would have been
2 Miss Woods' responsibility to take those steps?
3 A. It would have been Miss Woods' responsibility to
4 take those steps. If she needed assistance with that, for
5 example, she were going to refer them for expulsion then she
6 would have utilized the procedure and that would go to
7 somebody else.
8 Q. Who would an expulsion go to?
9 A. She would have to take the packet, fill it out to
10 Dr. Linden at the time, he was the assistant superintendent
11 in the office next to mine. And that was his
12 responsibility.
13 MR. MARNEN: John Linden, right? Dr. John Linden,
14 L-I-N-D-E-N?
15 THE WITNESS: Correct.
16 Q. Did you ever have any -- do you know whether that
17 impact happened or whether -- did you ever talk to
18 Mr. Linden about this situation -- Dr. Linden, excuse me.
19 A. I really can't say I recall, I certainly may have.
20 They certainly may have done that, but I do not have a
21 recollection.
22 Q. Is Dr. Linden still with the Erie School District?
23 A. He has retired.
24 Q. At that time did you have any responsibility
25 relative to the discipline policy of the school district?

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1 A. Did I have any responsibility? Depending on the
2 circumstance I could. If John Linden was out of town, if
3 the principal wasn't in, substitute principal didn't know
4 what to do, they could have called me. Was that one of my
5 job functions? Absolutely not.
6 Q. There was a -- I want to ask you your information
7 concerning some procedural issues. I don't know what I did
8 with that first page here. As you know, and we've looked at
9 them before, and I'll just refer you to Moore Deposition
10 Exhibit 1, and this pertains to R [REDACTED] P [REDACTED]. Although
11 Moore Deposition Exhibit 2, and there's similar
12 documentation pertaining to K [REDACTED] L [REDACTED].
13 A. Um-hmm.
14 Q. There was an IEP review revision, this document
15 was completed on 1/18/02 for R [REDACTED] P [REDACTED].
16 A. Okay.
17 Q. That would be Moore Exhibit 1. Would you
18 anticipate that there would be actually an IEP meeting
19 before this document was prepared and signed?
20 A. Not necessarily, could.
21 Q. Under what circumstances is it permissible not to
22 have an IEP meeting before changing the IEP?
23 A. If there really is no structural change needed or
24 any significant change, or at this moment if the teacher and
25 a parent do not determine a pressing need, I don't think

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 RICHARD P., by and for :
4 R. P., and DENISE L., :
5 by and for K. L., :
6 Plaintiffs :

7 v. :

Civil Action No. 03-390
Erie

8 SCHOOL DISTRICT OF THE CITY :
9 OF ERIE, PENNSYLVANIA; JANET :
10 WOODS, Individually and in :
11 her Capacity as Principal of :
12 Strong Vincent High School; :
13 and LINDA L. CAPPABIANCA, :
14 Individually and in her :
15 Capacity as Assistant :
16 Principal of Strong Vincent :
17 High School, :
18 Defendants :

19 Deposition of VIKKI SCULLY, taken before
20 and by Janis L. Ferguson, Notary Public in and
21 for the Commonwealth of Pennsylvania, on Friday,
22 March 18, 2005, commencing at 1:14 p.m., at the
23 offices of Knox McLaughlin Gornall & Sennett, PC,
24 120 West 10th Street, Erie, Pennsylvania 16501.

25 Reported by Janis L. Ferguson, RPR
Ferguson & Holdnack Reporting, Inc.

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1 Q. Okay. Describe the conduct that he engaged in
2 that you remember.
3 A. It would be stuff like he would repeat stuff that
4 they said or interrupt when they were talking or, you know,
5 you're looking at me, stop looking at me. You moved my pen.
6 Stuff like that.
7 Q. Did you have to -- let me ask it this way: In
8 terms of maintaining order in your classroom, what tools did
9 you have as a teacher to make sure that all the students
10 were on task?
11 A. I would separate students who I considered to be
12 distracting. I would put them closer in proximity to me so
13 I could monitor what they're doing, and I kept them very
14 busy. I had stuff to do from -- immediately when you walked
15 in, there was stuff on the board. It was called a "do now",
16 where they had to sit down and get to work. Try to reduce
17 downtime at all -- at all costs, because that's when middle
18 school students get into trouble, is when they have
19 unstructured time.
20 I encourage the students to tell me, you know, if
21 things were going on, and then we would address it and worry
22 about stuff in the classroom. And then if the kids were
23 violating the rules, there was the discipline measures;
24 teacher detention, phone call home. And if it would
25 persist, then it would be referred to the office and the

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1 administrators.
2 Q. Teacher detention, what kind of -- what did that
3 imply?
4 A. They would come after school the next day or the
5 day after, and I would either give them an assignment, or we
6 would talk about what was going on. Basically they had to
7 stay after school a half hour for -- you know, some
8 punishment was doled out during that time period.
9 Q. And that's different from the -- we've run across
10 a term called the PASS.
11 A. Um-hum. Program for After-School Suspension.
12 Q. Okay. Program for After-School Suspension. So
13 the teacher suspension was a different tool?
14 A. That was the first kind of notch on the discipline
15 belt.
16 Q. And did you find that you were referring -- using
17 the referral system to refer C [redacted] B [redacted] to
18 Miss Cappabianca for help?
19 A. C [redacted] -- C [redacted] was referred to the office
20 frequently, I would say.
21 Q. Did you talk to -- when you referred C [redacted],
22 would Miss Cappabianca talk to you, or would there be
23 communications between the two of you?
24 A. Yes. She was very open and, you know, wanted to
25 know what was going on, or would give us feedback as to

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1 what, you know, she did.
2 Q. And do you remember B [redacted] I [redacted]
3 A. Yes, I do.
4 Q. Was she in any classes with either R [redacted] or
5 K [redacted]?
6 A. That, I would have to look at my -- I don't
7 remember.
8 Q. And what kind of discipline problems did B [redacted]
9 C [redacted] present?
10 A. Defiant to authority. If she wanted to do
11 something, she would do it. If she didn't, then she
12 wouldn't.
13 Q. And was she friends with C [redacted] B [redacted], do you
14 know?
15 A. I don't know. I -- they interacted. I don't know
16 if I would call them friends.
17 Q. In terms of your -- either your background, you
18 know, your educational background, your experiential
19 background, is it fair to say that learning support kids
20 might be more vulnerable than other kids, in terms of abuse
21 or harassment? Is that a fair statement, do you think?
22 A. I don't know, because as I have gone on in my
23 career, I -- I have seen kids in the regular ed., regular
24 education students who are often targets to -- I don't think
25 so much it's, per se, because they are a learning support

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1 student. Because there's many learning support students
2 that go through school fine without ever being the target
3 or, you know, getting picked on.
4 Q. Do you recall whether either K [redacted] or R [redacted]
5 were targets of either harassment or bullying by other
6 students?
7 A. Not to my recollection, no. K [redacted] was
8 social -- K [redacted] had a sister at the school who she was
9 protective of. And R [redacted] was very quiet. R [redacted] was the
10 kind of student that went in the back of the room, sat
11 there, did her work, and didn't -- didn't cause much of a
12 scene. So I didn't -- you know, she was one of the quiet
13 ones.
14 Q. Do you remember whether you ever had to refer
15 either R [redacted] or K [redacted] to Miss Cappabianca?
16 A. R [redacted] I sent to the office -- the one time that
17 I recall is when she had walked into the room and had yelled
18 a curse word at a student, which was surprising, because I
19 had not heard R [redacted] talk like that. And I sent her over to
20 the office.
21 I don't think I ever referred K [redacted] or R [redacted]
22 for any other reason. For discipline -- discipline for -- I
23 mean, if, you know, kids come up and say I have a problem or
24 something, I would send them to the office so they could
25 talk. But K [redacted] and R [redacted] were, in my opinion, no way

4 (Pages 10 to 13)

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1 behavior problems.

2 Q. Do you know whether K [REDACTED] ever talked to you
3 and asked your permission to go to the office so that she
4 could talk to Mrs. Cappabianca?

5 A. There were a couple times where she would go and
6 talk with her. K [REDACTED] had a very good relationship with
7 Linda. She was open and willing to talk. R [REDACTED] was a
8 little more shy, quiet, kept to herself.

9 Q. And when you say that K [REDACTED] had a good
10 relationship with Mrs. Cappabianca, how do you know that?

11 A. They were talking a lot. Miss Cappabianca spent a
12 lot of time with her, you know, walking down the hall. I
13 would see them talking. Or if K [REDACTED] needed to go talk to
14 her -- my room was literally right across the hall, so I
15 could look in, and I knew who was in the office, because I
16 usually keep my door open.

17 Q. At some point did you learn that K [REDACTED] and
18 R [REDACTED] had been molested?

19 A. Yes.

20 Q. Okay. How did you learn that?

21 A. That was the day after -- it was after the day
22 that R [REDACTED] had come in and, out of character, screamed at a
23 student. And when I sent her over to the office, shortly
24 thereafter, news of the incident was -- we were told certain
25 things about what had happened.

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1 Q. Okay. Tell me who told you and what was told to
2 you.

3 A. Linda Cappabianca let us know that the girls were
4 assaulted in the back of the -- what was that? The
5 Laundromat on 8th Street. And we weren't told a lot about
6 it. I didn't know which boys were involved. But we were
7 just, you know, instructed to keep the kids on task and to,
8 you know, keep -- you know, keep it -- you know, usual
9 typical day. Try to keep the kids redirected and -- so I
10 didn't know many of the details of what happened.

11 Q. You said that you learned the day after R [REDACTED] had
12 come in and used the -- a curse word.

13 A. Um-hum.

14 Q. What do you recall of that incident; R [REDACTED] coming
15 in the classroom?

16 A. It was the very beginning of class. I believe it
17 was the first thing in the morning. And the kids were
18 walking in and getting settled. And all I heard was R [REDACTED]
19 you know, yell at this other student. And I was surprised.
20 I remember being like, this isn't like her, and I just said,
21 you need to go to the office. And then --

22 Q. What word did she use?

23 A. The "F" word.

24 Q. And you don't remember the student, or you do?

25 A. Who she said it to?

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1 Q. Yes.

2 A. No, I don't.

3 Q. Okay. And then it's your testimony that the next
4 day following that, that you learned -- Miss Cappabianca
5 told you that there had been an incident involving the
6 girls.

7 A. Yes. And I'm not sure if it was the next day, but
8 somewhere -- because the investigation had begun. And
9 somewhere in that time period, we were told, you know, the
10 facts that we needed to know, which weren't many.

11 Q. So it might not have been -- it might have been
12 the next day, or it might not have been.

13 A. It was in that -- the first couple days.

14 Q. Okay. And do you remember when that was?

15 A. I believe it was right after we returned from
16 school. After the Christmas holidays. So that was 2002.

17 Q. Okay. Now, were you aware whether any of the
18 other students were talking about the incident?

19 A. A couple of days there was chatter, you know,
20 amongst the kids. But we just kept trying to redirect and
21 say, you know, people are taking care of it and -- and when
22 an incident happens in a middle school, you know, it's --
23 you know, people talk and rumors start to --

24 Q. Right.

25 A. So we just tried to keep it to a minimum.

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1 Q. And then when you say "we", who are you -- who is
2 "we"?

3 A. Other teachers that -- the learning support
4 teachers; Connie Manus, Jodie Gray, who taught across the
5 hall.

6 Q. Okay. Now, when Miss Cappabianca told you about
7 the incident, did she gather all of you together to talk to
8 you, or did she just talk to you?

9 A. She told me on a one-to-one basis.

10 Q. And then you're assuming that she also told the
11 other teachers?

12 A. Yes. Yeah.

13 Q. And she didn't mention who the assailants were to
14 you.

15 A. No.

16 Q. Okay. And do you recall whether either K [REDACTED]
17 or -- and if I asked you this, I apologize. Did either
18 K [REDACTED] or R [REDACTED] talk to you about the incident
19 themselves?

20 A. No.

21 Q. Did you observe anyone -- after the incident, did
22 you observe any students, you know, taunting, harassing, or
23 bothering either R [REDACTED] or K [REDACTED]

24 A. No, because when I became aware of it was after
25 the -- the blowup in my classroom. And after that, I didn't

5 (Pages 14 to 17)

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE WESTERN DISTRICT OF PENNSYLVANIA

3 RICHARD P., by and for :
4 R. P., and DENISE L., :
5 by and for K. L., :
6 Plaintiffs :

7 v. :

8 Civil Action No. 03-390
9 Erie

10 SCHOOL DISTRICT OF THE CITY :
11 OF ERIE, PENNSYLVANIA; JANET :
12 WOODS, Individually and in :
13 her Capacity as Principal of :
14 Strong Vincent High School; :
15 and LINDA L. CAPPABIANCA, :
16 Individually and in her :
17 Capacity as Assistant :
18 Principal of Strong Vincent :
19 High School, :
20 Defendants :

21 Deposition of RONALD SLUPSKI, taken before
22 and by Janis L. Ferguson, Notary Public in and
23 for the Commonwealth of Pennsylvania, on Tuesday,
24 April 26, 2005, commencing at 1:13 p.m., at the
25 offices of Knox McLaughlin Gornall & Sennett, PC,
 120 West 10th Street, Erie, Pennsylvania 16501.

 Reported by Janis L. Ferguson, RPR
 Ferguson & Holdnack Reporting, Inc.

Page 14

1 Pam Barber, Jim Perfetto, Janet Woods, and then you, of
 2 course. Anybody else you can remember?
 3 A. I might have -- Detective Love -- or Wally Love
 4 might have walked over also. I know -- I'm not sure if he
 5 came over at the same time I did, but I know -- as I said
 6 earlier, you know, when we have -- when police officers or
 7 whoever come into the building, usually we're there to greet
 8 them. And I'm sure Wally Love would have been there also,
 9 although, I don't recall seeing him in there.
 10 Q. Did you ever --
 11 A. But I know he -- he would have sooner or later
 12 been in the office at the same time.
 13 Q. What time of day was this, do you remember?
 14 A. I think it was in the morning.
 15 Q. Can you be more specific?
 16 A. No, I can't.
 17 Q. Okay. Sometime in the morning?
 18 A. Sometime in the morning.
 19 Q. How long did you stay in the room?
 20 A. Just enough to get some -- just to get an inkling
 21 of what they were doing there.
 22 Q. Okay.
 23 A. Yeah.
 24 Q. What were you told?
 25 A. Well, I -- I learned that there was an

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1 investigation; that they were there to make inquiries into
 2 some sexual misconduct allegations.
 3 Q. Against students?
 4 A. Against -- yeah, well, I -- again, I don't recall
 5 exactly.
 6 Q. You just remember sexual misconduct?
 7 A. Yeah. I knew there was something going on and
 8 these people were there to conduct the investigation.
 9 Q. Is it fair to say you were there less than 30
 10 minutes in the office?
 11 A. No. I -- it's --
 12 Q. You don't know?
 13 A. Oh, I was there less than that. I had other
 14 things going on, yeah.
 15 Q. Okay. It was a brief of -- to brief you on what's
 16 going on, and --
 17 A. And I don't even think it was a formal brief.
 18 Hey, guys, what's going on; you know, what brings you here.
 19 Well, we're here for this. Okay. Any way I can help? Fill
 20 me in what's going on later on, and I'll talk to you guys
 21 later.
 22 Q. And you're on your way.
 23 A. I went back across the hall. If you need me for
 24 something, get in touch.
 25 Q. Okay.

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1 A. Usually -- you know, if I can expand that answer a
 2 little bit. Usually what happens is -- if detectives are
 3 working on something that we don't -- we don't jump in on
 4 their investigation. They conduct their investigation. If
 5 they need our help, you know, they will come in -- or they
 6 will ask us for it. If there's something -- you know, can
 7 you guys add something, you know, they will ask for it. And
 8 that's just the way -- unwritten rule in the police
 9 department is, you know.
 10 Q. Did you or Detective Love ever conduct criminal
 11 investigations at Strong Vincent?
 12 A. Oh, yeah, um-hum.
 13 Q. Were there certain kinds of things you
 14 investigated?
 15 A. Thefts. We do a lot of those. We did a lot of
 16 thefts. Vandalisms. Kids pulling fire alarms. Criminal
 17 trespass; people coming into the building that don't belong
 18 there. Fights in the school. Things -- things like that.
 19 Q. Okay. Do you know why you didn't investigate this
 20 particular incident?
 21 A. I have no idea.
 22 Q. Have you ever, during the time you have been
 23 there, investigated an alleged sexual assault?
 24 A. Outside of -- well, as a matter of fact, I have
 25 one going on now. Yeah, I have in the past.

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1 Q. What is the general nature of that one?
 2 A. Well, usually I'm called in by one of the
 3 principals. And the first point of contact a student would
 4 have is generally with the principal, one of the principals,
 5 or their teacher and then to the principal, and then it will
 6 filter back down to us.
 7 Q. But the one you're investigating right now, that's
 8 a sexual assault?
 9 A. Yes, it is.
 10 Q. Is it rape?
 11 A. No. No.
 12 Q. Something less serious?
 13 A. Indecent. It's an indecent assault.
 14 Q. Okay.
 15 A. Along with there are some other charges that are
 16 going on with that also.
 17 Q. All right. As you sit here today, do you know why
 18 you did not investigate this matter?
 19 A. No. I -- I couldn't speculate. No, I don't know
 20 why.
 21 Q. Okay.
 22 A. There are -- there are times when we're not called
 23 in. Some matters are settled between the principal and
 24 student. We're not brought in on it. We're not brought in
 25 on every little thing that goes on.

5 (Pages 14 to 17)

<p style="text-align: right;">Page 18</p> <p>1 Q. Did you participate to any extent in the</p> <p>2 investigation of this incident?</p> <p>3 A. No. I just hate to give you short answers, but</p> <p>4 what do you mean by "participate"? I'm trying to be --</p> <p>5 Q. No, that's a legitimate question.</p> <p>6 A. I'm trying to be specific.</p> <p>7 Q. I appreciate your interest in -- in providing the</p> <p>8 information. All right. You walked out of the room after</p> <p>9 you were introduced and then briefly briefed. And did you</p> <p>10 have any -- did you talk with any students concerning this</p> <p>11 matter in the nature of interviewing them?</p> <p>12 A. I didn't talk to any students that I recall. I</p> <p>13 imagine, you know, we might have had conversations with --</p> <p>14 with the detectives who were assigned this case. At some</p> <p>15 point in time I'm sure, you know, they would ask if there</p> <p>16 was anything that I could add. Do I know these kids; you</p> <p>17 know, are they credible; things like that. I'm sure they</p> <p>18 asked me that.</p> <p>19 Q. You are talking a general protocol on what usually</p> <p>20 happens. You're not --</p> <p>21 A. Basically, right.</p> <p>22 Q. Again, I'm gathering you're not talking about your</p> <p>23 specific memory about this incident.</p> <p>24 A. Well, okay. I don't recall any -- any specific</p> <p>25 incidents where they directly asked me about this case.</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Did you stay within that perimeter of Weschler,</p> <p>2 8th, Washington, and the football field when you patrolled?</p> <p>3 A. I would say 99 percent of the time.</p> <p>4 Q. Did you ever go beyond that perimeter?</p> <p>5 A. Yes, we did.</p> <p>6 Q. Where would you go, when you did?</p> <p>7 A. Well, I'll give you an example. We had a call at</p> <p>8 the Way2Go store, where kids were stealing, and they were</p> <p>9 identified as Strong Vincent -- retail theft -- Strong</p> <p>10 Vincent students. We get complaints from neighbors up over</p> <p>11 on 10th and Washington where the kids get off the school bus</p> <p>12 that they are loitering around, just causing all kinds of</p> <p>13 disturbances. I would take a drive up there, break them up,</p> <p>14 send them on their way. Down into the football field; kids</p> <p>15 skipping school. I went over to Frontier Park; kids running</p> <p>16 around. So, yeah, occasionally, I get off of school</p> <p>17 property.</p> <p>18 Q. The Way2Go, is that the plaza that's at the corner</p> <p>19 of Washington and 8th?</p> <p>20 A. Yeah. That's right.</p> <p>21 Q. And also in there, I guess, also --</p> <p>22 A. I think it's on Cranberry and 8th.</p> <p>23 Q. Oh, Cranberry?</p> <p>24 A. Yeah.</p> <p>25 Q. Okay. You're right.</p>
<p style="text-align: right;">Page 19</p> <p>1 Q. Okay. But it would be typical for them to ask you</p> <p>2 things, I gather.</p> <p>3 A. Typically, yes, they would. Yeah.</p> <p>4 Q. Okay. In the course of your work as security at</p> <p>5 Strong Vincent, I think you said over 25 years -- it has</p> <p>6 been 25 years, right? Is that what you said?</p> <p>7 A. That's right.</p> <p>8 Q. Do you do any patrolling of the grounds, the</p> <p>9 school grounds?</p> <p>10 A. Oh, yes. Yes, we do.</p> <p>11 Q. Now, Strong Vincent is bordered on the west by</p> <p>12 Weschler Avenue, right?</p> <p>13 A. Yes.</p> <p>14 Q. And on the north by 8th Street?</p> <p>15 A. That's right.</p> <p>16 Q. I'm sorry, the south.</p> <p>17 A. That's right.</p> <p>18 Q. You and I both screwed up there. On the south,</p> <p>19 8th Street, right?</p> <p>20 A. Yeah.</p> <p>21 Q. And on the east by Washington?</p> <p>22 A. Yes.</p> <p>23 Q. And then behind it is -- immediately behind it,</p> <p>24 there's no street. There's a field back there, right?</p> <p>25 A. That's right.</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Actually, it's 6th. 6th and Cranberry.</p> <p>2 Q. You're right. It is. Okay. Do you ever go over</p> <p>3 to the -- there's a Laundromat at 8th and Washington. Do</p> <p>4 you go there?</p> <p>5 A. I go there every day.</p> <p>6 Q. What do you go there for? Pick up your clothes?</p> <p>7 A. Well, in the morning -- in the morning, I kick the</p> <p>8 kids off the corner, tell them it's time to go to school.</p> <p>9 And after school, kick them off the corner, tell them to</p> <p>10 leave the corner. People don't want you hanging around,</p> <p>11 take a walk.</p> <p>12 Q. Does after school mean around 3:00 in the</p> <p>13 afternoon?</p> <p>14 A. School lets out about 3:25, and I'm there until --</p> <p>15 five, good five to 10 minutes until the bus comes. And</p> <p>16 after that, kids generally start breaking up.</p> <p>17 Q. You're familiar with the PASS program, are you?</p> <p>18 A. Yeah. Yes, I am.</p> <p>19 Q. That let out later than 3:00, right?</p> <p>20 A. Yeah. It -- I think it was 6:00. I'm not sure.</p> <p>21 Q. Would you ever be around that late?</p> <p>22 A. No.</p> <p>23 Q. Would Detective Love also be gone by that time,</p> <p>24 typically?</p> <p>25 A. Yeah. We would punch a clock, and we were out of</p>

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RICHARD P., by and for
R. P., and DENISE L.,
by and for K. L.,
Plaintiffs

v.

Civil Action No. 03-390
Erie

SCHOOL DISTRICT OF THE CITY
OF ERIE, PENNSYLVANIA; JANET
WOODS, Individually and in
her Capacity as Principal of
Strong Vincent High School;
and LINDA L. CAPPABIANCA,
Individually and in her
Capacity as Assistant
Principal of Strong Vincent
High School,
Defendants

Deposition of JANET WOODS, taken before
and by Janis L. Ferguson, Notary Public in and
for the Commonwealth of Pennsylvania, on Monday,
April 11, 2005, commencing at 10:00 a.m., at the
offices of Knox McLaughlin Gornall & Sennett, PC,
120 West 10th Street, Erie, Pennsylvania 16501.

Reported by Janis L. Ferguson, RPR
Ferguson & Holdnack Reporting, Inc.

<p style="text-align: right;">Page 38</p> <p>1 A. That incident did not happen on school property.</p> <p>2 Q. Okay.</p> <p>3 A. Could I --</p> <p>4 Q. Go ahead.</p> <p>5 A. Let me just finish. That incident did not happen</p> <p>6 on school property. So, unfortunately, none of it falls</p> <p>7 under the -- under the Discipline Code. You know. That</p> <p>8 incident happened -- we're talking about the incident on the</p> <p>9 19th of December, are we not?</p> <p>10 Q. Right. And there was another incident on</p> <p>11 January 7th.</p> <p>12 A. Yeah, we -- we were not made aware of that</p> <p>13 incident until later in that week, and that's when the whole</p> <p>14 thing kind of started to piece together, and we were able to</p> <p>15 talk to all the parents and talk to the girls and talk to</p> <p>16 Mr. B.</p> <p>17 When I met with -- I remember when I met with</p> <p>18 Mr. B. relative to that incident -- and, trust me, I was</p> <p>19 looking for something that he did on school property. I was</p> <p>20 looking for something in that whole mess. But none of that</p> <p>21 happened on school property, and we weren't aware of it.</p> <p>22 But when I talked to the father -- and that was</p> <p>23 the first time I had ever talked to the father. We had</p> <p>24 always talked with the mother prior to that. We talked to</p> <p>25 the father, and I let him know in no uncertain terms that if</p>	<p style="text-align: right;">Page 40</p> <p>1 property, at any school-sponsored activity, including</p> <p>2 graduation, dances, field trips, et cetera, on any public</p> <p>3 conveyance providing transportation to a school or</p> <p>4 school-sponsored activity, and for students going to and</p> <p>5 returning from school," end quote.</p> <p>6 Now, he was in PASS and going home on the incident</p> <p>7 where he assaulted K. and R., wasn't he?</p> <p>8 A. Correct.</p> <p>9 Q. So this student behavior could have been</p> <p>10 interpreted to cover that activity; is that right?</p> <p>11 A. Well, there was more than one incident here.</p> <p>12 Q. Right.</p> <p>13 A. Apparently two. And --</p> <p>14 Q. In fact, wasn't he going home from PASS on both of</p> <p>15 those incidents? He was going home -- he had just been</p> <p>16 released from PASS when those incidents occurred. I mean,</p> <p>17 is that your understanding of what happened?</p> <p>18 A. Well, generally, yes. But when I -- because it</p> <p>19 was off school property -- it was off school property. And</p> <p>20 they had wandered -- I'm talking about the 19th of December;</p> <p>21 the one that we -- when we finally found out about it,</p> <p>22 around, oh, the 9th of January, we started talking to the</p> <p>23 kids about this incident that had happened in December.</p> <p>24 These students hung around a long time -- in fact,</p> <p>25 I don't know if one student had even gone home and come back</p>
<p style="text-align: right;">Page 39</p> <p>1 I could pursue criminal charges, they were going to be done,</p> <p>2 and that we had the police involved in the -- in the</p> <p>3 incident that happened over in the Laundromat.</p> <p>4 And that father -- we didn't even talk about the</p> <p>5 AEP thing, because we had talked to his mother about that</p> <p>6 and couldn't get her to go for it. But the reality was, the</p> <p>7 father never brought that kid back to school. And I had to</p> <p>8 go hunting for him to know where he was.</p> <p>9 Q. You didn't know where he was, right?</p> <p>10 A. Well, we -- I finally got it down to he had tried</p> <p>11 to enroll in Faith Assembly of God up on Oliver Road. But</p> <p>12 we couldn't get anyone at the house. We sent the homeschool</p> <p>13 visitor out. I remember it was -- you know, because he is</p> <p>14 still -- he is still on our books. He was still our</p> <p>15 student. We still had -- he was a special education</p> <p>16 student, he was still our student, he was on our books, and</p> <p>17 we had a heck of a time. I sent the homeschool visitor to</p> <p>18 try to find him. We had a heck of a time trying to even</p> <p>19 keep track of him. I didn't want to -- you know, you just</p> <p>20 can't lose track of a kid.</p> <p>21 Q. Okay. Would you go to Page 12 of this Exhibit C.</p> <p>22 A. (Witness complies.) Yep.</p> <p>23 Q. At the top of that, it says Student Behavior, and</p> <p>24 I'm going to read. "All provisions regarding student</p> <p>25 behavior are applicable to students while on school</p>	<p style="text-align: right;">Page 41</p> <p>1 or if they -- I don't know if all the kids had come from</p> <p>2 PASS. But a couple kids were waiting for rides. But they</p> <p>3 were in the Laundromat.</p> <p>4 Q. Right.</p> <p>5 A. They were in the Laundromat, they were -- had</p> <p>6 walked over on school property, they had walked down to 7th</p> <p>7 Street. Quite a bit of time had passed. Because they --</p> <p>8 when we talked to the students, they weren't just in one</p> <p>9 place on their way home. They were actually down on 7th</p> <p>10 Street --</p> <p>11 Q. Okay. But I'm talking about C. B. Is it</p> <p>12 your understanding that he was released from PASS and he</p> <p>13 went across the street and assaulted K. and R.</p> <p>14 A. Correct.</p> <p>15 Q. Okay. And I think you indicated in your testimony</p> <p>16 that you were looking for a way to expel him. Is that</p> <p>17 right? Or discipline him?</p> <p>18 A. Well, I was interested in -- I don't want any bad</p> <p>19 eggs in my school. Why would I want to keep somebody in the</p> <p>20 building that might interfere with the education of your --</p> <p>21 of your child.</p> <p>22 Q. Okay.</p> <p>23 A. I'm not going to try to keep somebody in that</p> <p>24 building.</p> <p>25 Q. Okay. But you did not bring -- institute</p>

<p style="text-align: right;">Page 42</p> <p>1 discipline proceedings against C [REDACTED] E [REDACTED] for either one</p> <p>2 of the two incidents that involved R [REDACTED] or the incident</p> <p>3 that involved K [REDACTED]</p> <p>4 A. That's correct. But I wasn't -- when I -- when we</p> <p>5 became aware of the situation, when things started to --</p> <p>6 when R [REDACTED] had her -- R [REDACTED] had an outburst in class, and</p> <p>7 that's how it started. R [REDACTED] talked to us -- talked to me</p> <p>8 and talked to Mrs. Cap, and we were able to finally start</p> <p>9 realizing that there was something that had gone on over at</p> <p>10 the Laundromat. And then we found out that B [REDACTED] C [REDACTED]</p> <p>11 was coercing, was forceful. Another bad egg. And that</p> <p>12 A [REDACTED] K [REDACTED] was involved.</p> <p>13 We realized it was what I thought was -- you know,</p> <p>14 I'm an armchair -- I'm not a policeman. I'm just an</p> <p>15 armchair observer -- of criminal nature. And we got enough</p> <p>16 credible evidence, we called the police in, talked to the</p> <p>17 parents, called them -- got the parents in first, talked to</p> <p>18 the kids, talked to the parents, and then -- and by that</p> <p>19 Friday morning, I had the police in my office.</p> <p>20 I had called downtown on -- after I talked to</p> <p>21 R [REDACTED], and realized that we had this situation on our</p> <p>22 hands. And I was interested in finding out something --</p> <p>23 like I just stated, I was interested in finding something</p> <p>24 that happened on school property, because that would have</p> <p>25 given us all the ammo we needed to get some of these</p>	<p style="text-align: right;">Page 44</p> <p>1 have, I want as a matter of record.</p> <p>2 And so when the police come, we give them the</p> <p>3 information, and -- because it was not -- it was not</p> <p>4 something that happened on school property, and it wasn't</p> <p>5 something that happened under my jurisdiction.</p> <p>6 Q. Okay.</p> <p>7 A. I couldn't pursue it to alternative education, I</p> <p>8 couldn't pursue the criminal charges.</p> <p>9 Q. And who told you that? Who told you, you couldn't</p> <p>10 pursue it?</p> <p>11 A. Either -- either Mr. Scozzie or Dr. Linden. They</p> <p>12 said, wait until the police have finished their report,</p> <p>13 because it didn't take place on school property.</p> <p>14 Q. Did you tell them that, look, it happened when the</p> <p>15 students were going to and returning from school and, that,</p> <p>16 therefore, it's within the jurisdiction of the discipline</p> <p>17 rules?</p> <p>18 A. I don't think at that time it was viewed as they</p> <p>19 were returning -- going to or from school. It happened</p> <p>20 after PASS. But I don't think all the students were -- I</p> <p>21 think Rachel lived right down the street.</p> <p>22 Q. But she wasn't -- she wasn't the assailant.</p> <p>23 A. Correct.</p> <p>24 Q. R [REDACTED] wasn't the assailant, was she?</p> <p>25 A. No.</p>
<p style="text-align: right;">Page 43</p> <p>1 eggheads out.</p> <p>2 But when you talk -- when I talked to the guys</p> <p>3 downtown, we had -- because it was that far off school</p> <p>4 property, and because of the time lapse, it -- they said,</p> <p>5 it will -- you will have to wait until the police does their</p> <p>6 investigation before we can see if there's any grounds for</p> <p>7 us to press criminal charges on B [REDACTED] or K [REDACTED] or B [REDACTED]</p> <p>8 as far as the school goes.</p> <p>9 Q. Who did you talk to downtown?</p> <p>10 A. I talked to Dr. John Linden, the assistant</p> <p>11 superintendent, and to Frank Scozzie, the assistant to the</p> <p>12 superintendent. I may have also talked to Dr. Bob Oliver.</p> <p>13 I don't recall if he was in that position yet or not. Those</p> <p>14 were -- those were the standard two calls I made, to the</p> <p>15 assistant superintendent and the assistant to the</p> <p>16 superintendent. Mr. Scozzie is also in charge of special</p> <p>17 education, so.</p> <p>18 Q. Did you take notes, make notes when you had these</p> <p>19 conversations or when you met with students?</p> <p>20 A. I took notes, but they would not have been kept,</p> <p>21 because they were -- any -- any recording that we --</p> <p>22 anything that I -- we have students write stuff down with a</p> <p>23 witness there and sign it. But anything that I have, I make</p> <p>24 sure that that is translated into a -- into the police</p> <p>25 report. I don't keep separate anecdotal notes. What I</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Would there be any reason to discipline R [REDACTED]</p> <p>2 A. No. Not at all.</p> <p>3 Q. You mentioned B [REDACTED] C [REDACTED] as one of the --</p> <p>4 A. Yeah.</p> <p>5 Q. -- protagonists here. Was she a bad egg also?</p> <p>6 A. She was a bad egg. She was a student that needed</p> <p>7 disciplined.</p> <p>8 Q. Was she ever expelled as a result of this incident</p> <p>9 or anything pertaining to Rachel?</p> <p>10 A. No.</p> <p>11 Q. Was she ever disciplined for anything pertaining</p> <p>12 to Rachel?</p> <p>13 A. You're talking about school discipline here,</p> <p>14 right?</p> <p>15 Q. School discipline.</p> <p>16 A. No. All -- all criminal charges were handled</p> <p>17 through -- and we supported absolutely every way we could.</p> <p>18 But as soon as we knew about it, I think that -- that is all</p> <p>19 I did for three days, I'm telling you. That is all I did.</p> <p>20 We learned about it when R [REDACTED] blew up in Miss Scully's</p> <p>21 room and told us what had happened. That is all I did for</p> <p>22 three days; was try to piece this together.</p> <p>23 And by Friday morning -- that happened on</p> <p>24 Wednesday. And by Friday morning, we had all the kids'</p> <p>25 statements, we had all the parents' statements -- except not</p>

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1 Mrs. L [REDACTED] because K [REDACTED] was in the hospital. But we had
2 all of the statements from all of the kids and their
3 parents. Although Mrs. L [REDACTED], Denise, did come and talk to
4 me. And that was helpful also, because we were able to add
5 that piece to the puzzle.

6 And by Friday morning, we had all the information
7 that we thought was credible, so that we could give it to
8 the police, and we knew the police were going to act right
9 there and right then.

10 Q. You indicated that you had statements from the
11 students. What form did those statements take?

12 A. We have students write it down, and then --

13 Q. And where are the -- have you ever seen those
14 statements since the students wrote them down?

15 A. The only one -- and, again, I know a lot of the
16 stuff ended up getting pitched after I was gone, because of
17 the change in the discipline thing about keeping notes,
18 those anecdotes. The only one I've seen in the documents
19 that you have -- that Mr. Marnen has is from, I believe,

20 A [REDACTED] F [REDACTED]

21 THE WITNESS: Is that right?

22 A. A [REDACTED] F [REDACTED] [sic].

23 Q. So the other students did statements, but they
24 were pitched.

25 A. Well, they gave -- now, the police --

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1 Q. Right. Where are the others?

2 A. I don't know. I'm not -- I don't know that every
3 student would have written a statement. We would have had
4 the information, we would have had the parent in and gone
5 over the information with the parent. And I know that all
6 information -- we repeated the whole scenario again; the
7 conversation with the police and the student there, and
8 sometimes the parent was there talking with the policeman at
9 the same time.

10 Q. Now, did you make notes as the students talked?

11 A. Probably. I generally take notes while a student
12 talks. But I don't do the kind of documenting you're doing.

13 Q. Right.

14 A. I'm more interested in ascertaining information
15 and knowing what to do with that information.

16 Q. Do you know where those notes are?

17 A. My notes would be gone.

18 Q. And who destroyed your notes?

19 A. I would have destroyed them myself.

20 Q. When?

21 A. After the police were there. I wouldn't keep that
22 information. Now --

23 Q. Go ahead.

24 A. Linda Cap had her own set of notes. I mean, you
25 know, but that's -- you know.

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1 Q. Please. I want to know what they gave to you.
2 The other students actually wrote statements, you're saying?

3 A. They gave -- and they gave -- all of that stuff
4 went to the police.

5 Q. Okay.

6 A. All -- everything went to the police.

7 Q. Well, if the police don't have it, does that mean
8 that you didn't give it to the police? I mean, we got the
9 statement from A [REDACTED] F [REDACTED] from the police.

10 A. From the police.

11 Q. Right. So it's your testimony here today that you
12 met with the students for three days, and that each student
13 wrote a statement.

14 A. My -- every student met with the police. I'm not
15 certain that every student would have written it.

16 Q. Wait. You met with students for two days.

17 A. Correct.

18 Q. And is it your testimony that those students wrote
19 statements?

20 A. Some of those students wrote statements.

21 Q. Which students wrote statements?

22 A. I don't know. I know A [REDACTED] F [REDACTED] did.

23 Q. And where are those statements?

24 A. Well, you just stated that the police had

25 A [REDACTED]

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1 Q. You say that this incident broke when R [REDACTED] had
2 an outburst in Miss Scully's class?

3 A. Right.

4 Q. Now, R [REDACTED] had not presented any behavioral
5 problems before that time; is that correct?

6 A. Oh, she was hardheaded. She -- R [REDACTED] sometimes
7 had her own -- she would -- not hardheaded. Maybe that's
8 too -- occasionally obstinate. How is that? That's not
9 hardheaded. Occasionally obstinate would be a better choice
10 of --

11 Q. She couldn't be compared to C [REDACTED] B [REDACTED], could
12 she, in terms of behavioral problems?

13 A. No. No.

14 Q. Or B [REDACTED] C [REDACTED]?

15 A. No. No. They were -- they were discipline
16 problems.

17 Q. What about K [REDACTED]? Did she present behavioral
18 problems?

19 A. No. K [REDACTED] and R [REDACTED] were pretty typical kids.
20 They were -- few problems here and there, but nothing --

21 Q. Let's mark this as Exhibit 2. I mean, this will
22 be Exhibit 1. I'm sorry.

23 (Woods Deposition Exhibit 1
24 marked for identification.)

25 Q. Have you ever seen Exhibit 1 before?

13 (Pages 46 to 49)

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1 A. I have.
 2 Q. And who prepared it?
 3 A. Linda -- this is Linda Cap did this. And I had
 4 her prepare this so that we had something in just brief --
 5 something that was as accurate as we could get it, to have
 6 it ready for the police. And I probably sent this downtown.
 7 Q. Okay.
 8 A. I see it has a fax --
 9 MR. MARNEN: Does "downtown" mean police or to the
 10 administration?
 11 A. Excuse me. Downtown means the downtown
 12 administration. It would be Dr. Linden and Dr. Scozzie.
 13 Q. And that number up there, 871-6374 --
 14 A. We have changed phone numbers. We're now an 874
 15 exchange. I don't know. It could be.
 16 Q. Okay. That's okay.
 17 A. Although it would have been before that date.
 18 Q. So Linda Cappabianca prepared this.
 19 A. I'm pretty sure. Um-hum. Yep.
 20 Q. Well, I'd like to draw your attention to the third
 21 paragraph on that first page. "R[REDACTED] is now being taunted
 22 by B[REDACTED] at school. B[REDACTED] is bothering her to perform the
 23 acts on other male students. On Monday, 1/7/02, there was a
 24 second incident. R[REDACTED] was at the water fountain. B[REDACTED]
 25 was in the hall asking R[REDACTED] to give head to a male student

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1 that walked by. R[REDACTED] refused. According to R[REDACTED], B[REDACTED]
 2 had shoved her down into the stairwell and pushed her to
 3 follow the male student. R[REDACTED] walked down the stairs in
 4 the same direction as the male student, but nothing had
 5 happened."
 6 That information came to your attention during the
 7 course of this investigation?
 8 A. Right. When -- after R[REDACTED] had come down from
 9 Miss Scully's room and we talked about -- well, a lot of
 10 things kind of unraveled there. Both of these incidences,
 11 the one on the 19th of December and this one, came out in
 12 that conversation. This -- we didn't know about this before
 13 that. We didn't know about it on the 7th, I can tell you.
 14 Q. Now, this incident that happened on Monday,
 15 March 7th [sic] that I have just read about, that did happen
 16 on school property, right?
 17 A. Yes.
 18 Q. And that is -- you wouldn't dispute that that's
 19 sexual harassment, would you?
 20 A. What page is sexual harassment on here? (Brief
 21 pause.) That is sexual harassment.
 22 Q. Okay.
 23 A. Absolutely.
 24 Q. But B[REDACTED] wasn't disciplined -- or there was no
 25 initiation of anything under the discipline policy against

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1 B[REDACTED] C[REDACTED] for that incident, was there?
 2 A. We didn't know about this until the 9th, and then
 3 we called the police.
 4 Q. Well, after the 9th, did you institute any
 5 disciplinary action against B[REDACTED] C[REDACTED] for that
 6 incident?
 7 A. I don't recall.
 8 Q. If you did institute some kind of discipline
 9 action against B[REDACTED] C[REDACTED] for that incident, would it
 10 appear -- would you assume that it would appear in her
 11 discipline file -- in her file?
 12 A. Well, it might not have, because we had given the
 13 police a lot of information about the -- this incident up
 14 here (indicating). And the charges actually came down, and
 15 we knew that there were going to be very, very large assault
 16 charges, and, you know, we knew that this girl was going to
 17 be sent away. I mean, there was --
 18 Q. You didn't know that on January 9th, did you?
 19 A. Boy. I couldn't see how it could not -- no. The
 20 charges hadn't been filed. I don't know when they filed
 21 charges. I mean, we asked them to file charges.
 22 Q. B[REDACTED] C[REDACTED] stayed in school after that
 23 incident. Isn't that right?
 24 A. She was in school --
 25 Q. She was not suspended, she was not expelled, there

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1 were no expulsion proceedings commenced against her. Is
 2 that right?
 3 A. Not at that time.
 4 Q. Okay.
 5 A. But there were criminal charges --
 6 Q. After --
 7 A. There were criminal charges.
 8 Q. I want to know what the School District did. I
 9 don't want to know what the Erie Police did.
 10 A. Right.
 11 Q. I want to know --
 12 A. Well, they may have filed charges. I don't
 13 think --
 14 Q. Who is "they"?
 15 A. The police department.
 16 Q. Okay. What I want to know is what the School
 17 District did. And --
 18 A. Go ahead.
 19 Q. You didn't -- you didn't discipline B[REDACTED]
 20 C[REDACTED], did you?
 21 A. I don't -- I don't know. I don't remember.
 22 Q. Well --
 23 A. This would be --
 24 Q. Go ahead.
 25 A. I don't know if I can say this. I would have to

14 (Pages 50 to 53)

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1 look at this and decide if this is harassment or sexual
2 harassment. That's what I was looking for. Because there's
3 a difference between -- you know, there is a huge difference
4 between the two.

5 Q. Right. Well, trying to get someone to perform
6 oral sex in the school, do you think that might be sexual
7 harassment?

8 A. Well, that's a sexual nature. Absolutely. It's
9 sexually inappropriate behavior, it's harassment.
10 Absolutely.

11 Q. Now, what about the student who --

12 A. There were charges -- there were charges -- I am
13 99 percent sure there were charges filed in this, but not
14 with the School District. I see what you're asking. Go
15 ahead.

16 Q. What about the male student who walked by? Was
17 that -- did you ever question that student?

18 A. No. This information came to us by R. And
19 there -- I -- and this -- this, obviously, was taking -- the
20 19th was taking precedent, because we knew there were
21 some -- there were assaults. And we weren't able to
22 ascertain who those students were. There were a couple of
23 students. And nobody seemed to know -- have names, or we
24 would have had names in here.

25 Q. Okay.

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1 A. Because we had lot of names in here, and that's --

2 Q. Okay. Now, you indicated that R. had this
3 outburst in Miss Scully's class. And then did she meet with
4 you and Miss Cappabianca, or did she meet with
5 Mrs. Cappabianca first?

6 A. She went -- Mrs. Scully's room is right across the
7 hall from Miss Cap's room. And R. went over there,
8 talked to Miss Cap, and then Miss Cap right away brought her
9 down to me.

10 Q. Okay. Now, did Miss Cap tell you that she had
11 actually learned about the sexual activity before Christmas?

12 A. Pardon me?

13 Q. Did Miss Cap tell you -- Miss Cappabianca tell you
14 that she had learned about the sexual activity involving
15 K. L. before Christmas?

16 MR. MARNEN: About the assault, you mean?

17 MR. OLDS: About the sexual activity, yes.

18 A. On --

19 MR. MARNEN: Well, there's a difference.

20 THE WITNESS: Yeah.

21 MR. MARNEN: Are you saying sexual activity
22 generally, or the assault?

23 MR. OLDS: Well, we'll break it down.

24 Q. Did she tell you that she learned about the
25 assault before Christmas?

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1 A. We did not know about that assault before
2 Christmas.

3 Q. Did she tell you that she learned that --

4 A. No.

5 Q. -- she had information that K. L. was
6 engaged -- involved in some kind of sexual activity before
7 Christmas?

8 A. A couple days before it was -- let's see. The
9 last day of school, then, was Friday the 21st. So back up
10 one day. We had found out -- we -- this incident allegedly
11 happened on the 19th. All right. We found that out in
12 January.

13 On the 20th, after school, I walked out into the
14 main hallway and saw Mrs. Cap talking -- or Miss Cap talking
15 to K. And I was on my way to do something else,
16 and -- and when I came back to my office, she said, I want
17 to talk to you about -- you know, and we always got
18 together, every day after school at some point before she
19 went home for the day, I spent time with each of the three
20 assistant principals.

21 And she says -- and so she went down through a
22 list of things that we had to cover. And she said that she
23 had overheard some -- there was some hall talk, we call
24 it -- you know, it was hall talk. She overheard some kids
25 in the hall talking about K. and C. and of them

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1 being engaged in some kind of sexual activity.

2 I said, well, who have you talked to. She said,
3 well, I talked to K. and she says -- and she's gone
4 down to PASS to talk to C., and C. said, well, she
5 likes me; that's why she's saying those things. Meaning,
6 K. likes me, that's why she's saying those things. I
7 said -- you know, we discussed if we should keep our ear to
8 the ground, if it was credible, and she said, well, let's
9 wait and see.

10 Well, C. wasn't even in school the next day.

11 That was the day before their Christmas vacation; the kids'
12 Christmas vacation. And that was about all we had -- we
13 didn't hear anything else. That would be something that I
14 would have said to her; just keep your ear to the ground and
15 see if you think there's anything else to it. And naturally
16 we would pursue it if we thought there was something to
17 pursue.

18 We did find out, though, when R. left
19 Miss Scully's room and started talking to Miss Cap and then
20 she came down and talked to me -- and she was very
21 forthright in -- in telling us about these couple of
22 incidences, and that's what got the ball rolling.

23 (Discussion held off the record.)

24 (Recess held from 12:01 p.m. till 12:07 p.m.)

25 Q. So I want to get back to this conversation before

15 (Pages 54 to 57)

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1 the Christmas break. I think you indicated that Miss --
 2 sometimes when we say Cap, Miss Cap, we're talking about
 3 Mrs. Cappabianca, right?
 4 A. Yes.
 5 Q. Linda Cappabianca.
 6 A. Right.
 7 Q. I think you said that she came to you and said
 8 that she heard hall talk. And that -- about K [REDACTED] and
 9 C [REDACTED] B [REDACTED]. Is that right?
 10 A. Um-hum.
 11 Q. And that the hall talk centered on the fact that
 12 there was some sexual activity between the two of them. Is
 13 that right?
 14 A. Yeah.
 15 Q. Okay. And --
 16 A. That's our -- that was what we ascertained from
 17 what she heard, yeah.
 18 Q. Okay. And then she had a conversation with
 19 K [REDACTED]. Is that right?
 20 A. Yeah. I saw her talking to K [REDACTED] in the hall
 21 after -- I think it was right after school, because I was
 22 going down the hall.
 23 Q. And, in fact, is it true that Linda Cappabianca
 24 told you that K [REDACTED] said there had been sexual contact
 25 between her and C [REDACTED] B [REDACTED]?

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1 A. What Linda told me was -- what Mrs. -- Miss Cap
 2 told me was that she had overheard some hall talk, and she
 3 was talking to K [REDACTED] after school, and said, is this true
 4 or something, and K [REDACTED] said yes. And Cap normally then
 5 would, like, call the mother and inform me, and we would try
 6 to talk to the other kid and see if we could -- you know.
 7 But, again, they are middle school kids, and so you try to
 8 listen with a discriminating ear.
 9 Q. Now, you indicated -- you made a statement in
 10 there that -- you attributed a statement to C [REDACTED] B [REDACTED]
 11 saying C [REDACTED] said something to the effect that she's just
 12 saying that because she likes him. Is that right?
 13 A. That -- I didn't ask that. I think -- because I
 14 said to Cap, go talk to C [REDACTED] and she -- or she had
 15 talked to C [REDACTED].
 16 Q. Okay.
 17 A. And then she reported back to me and said, well --
 18 Q. So essentially --
 19 A. Because I think he was in PASS too or something.
 20 Q. K [REDACTED] said something happened, and C [REDACTED]
 21 denied anything happened. Is that what you -- came from
 22 that?
 23 A. Yeah.
 24 Q. Now, did you -- you indicated that C [REDACTED] was a
 25 bad egg. Did you trust him?

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1 A. (No response.)
 2 Q. Was he honest?
 3 A. Yeah. I -- he was the kind of kid that sometimes
 4 he told the truth and sometimes he didn't. Like a lot of
 5 kids, sometimes -- generally they tell the truth and
 6 sometimes they don't tell the truth.
 7 C [REDACTED] was the kind of kid that you always -- he
 8 had a -- he had a discipline record. He would -- he would,
 9 you know, talk out of turn in class, and he would -- I mean,
 10 you always took everything --
 11 Q. We know that the discipline record involved theft,
 12 right?
 13 A. At school?
 14 Q. Stealing from teachers? Stealing from teachers?
 15 A. I think he took some stuff off a teacher's desk or
 16 something, yeah.
 17 Q. Had you spent much time with C [REDACTED]?
 18 A. Relative to other kids?
 19 Q. Yeah. In the sense that had you had him in your
 20 office, trying to talk to him, trying to deal with him,
 21 trying to change his behavior? Had that problem come up to
 22 your office?
 23 A. I -- I was in the meeting when we were trying to
 24 have him admitted to alternative education. I was in the
 25 meeting with his mother and Charlise Moore, who was the

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1 supervisor of special education. I was aware of -- I had
 2 talked to C [REDACTED] I'm sure.
 3 Miss Cap was in charge of the seventh and eighth
 4 graders, and I had two other assistants that each had half
 5 of the high school. And Miss Cap was very capable of taking
 6 care of -- of the number of kids that she had. If ever she
 7 needed help, she would ask.
 8 But I -- I probably talked to C [REDACTED] as well as
 9 other students. I mean, I -- but my position in that
 10 school, as I have stated, was -- wasn't such that I could do
 11 discipline that I was accustomed to doing when I was
 12 assistant principal. I mean, I certainly knew how to do all
 13 that, but.
 14 You know, there's 12 hours in every working day,
 15 or 15, and you just don't -- but I knew C [REDACTED]. And
 16 C [REDACTED] could be charming. C [REDACTED] was a very, very social
 17 kid. That was probably 90 percent of his problem, as a
 18 seventh grader. Or eighth grader. He was just a -- a
 19 middle school kid. He was just very social. He was very
 20 social.
 21 Q. Now, do you know whether Miss Cappabianca talked
 22 to B [REDACTED] C [REDACTED] before Christmas about what had happened
 23 the night on December 19th?
 24 A. No. We didn't -- we weren't aware of that
 25 incident until after Christmas. We weren't aware of that

16 (Pages 58 to 61)

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1 incident until school was in for a few days. After the New
 2 Year.
 3 Q. Now, describe K[REDACTED] in terms of -- you recall
 4 K[REDACTED]
 5 A. Yeah.
 6 Q. Describe --
 7 A. I'm not sure I'd recognize her if she walked in,
 8 though. She was pretty -- she was a little -- she was kind
 9 of a --
 10 Q. She's changed a little since then.
 11 A. Yeah, she's changed. She would have had to have
 12 changed, because she's an adolescent. Grows a lot.
 13 Q. Describe her personality and her characteristics
 14 as you recall them.
 15 A. Nice, sweet kid.
 16 Q. Do you know -- she was a special ed. student; is
 17 that right?
 18 A. Yes. These were all special education students.
 19 Q. Did K[REDACTED] have -- do you recall what specific
 20 special ed. -- what specific problems she had that resulted
 21 in her being in special ed.?
 22 A. I think she had -- was in the learning disabled
 23 program. Learning support.
 24 Q. And do you recall what her learning disability
 25 was?

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1 A. No.
 2 Q. Do you recall in terms of her ability to express
 3 herself, whether she could?
 4 A. Oh, yes. She was -- she was just a typical kid.
 5 Q. Now, I think that you indicated that you had
 6 received lots of training on sexual harassment. Is that
 7 right?
 8 A. We -- right.
 9 Q. Did that training -- did you ever learn whether
 10 children who have been victimized have problems talking
 11 about it?
 12 A. I -- that's -- I know that. Not from my training.
 13 I know that as just a -- I also have a Master's in
 14 counseling. I mean, I -- that's correct. Absolutely.
 15 Q. Now, after you talked to Miss Cappabianca about
 16 this conversation she had before Christmas with K[REDACTED]
 17 you said that you guys decided to wait and see what else
 18 happened? Is that right?
 19 A. Well, her -- her standard practice would have been
 20 to contact the parent -- I mean, like we talked about the
 21 kids at Wayne, or any middle school kid. You try to keep
 22 parents informed, especially those who are young kids.
 23 And -- well, even high school kids. But there -- anything
 24 of that nature.
 25 But at that point she would have -- I would not

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1 have. She would have contacted -- maybe contacted the
 2 parent. I know that she was in -- Mrs. L[REDACTED] was in school a
 3 lot. I remember seeing Mrs. L[REDACTED] off and on at school. And
 4 I know that she -- Miss Cap had conversations with her, as
 5 she did with many parents. I mean, I've had probably
 6 conversations with Mr. P[REDACTED]
 7 I mean, we just had -- it wasn't a really big
 8 class, and so we were in contact with parents a lot. Like I
 9 said, it's really important that those middle school kids
 10 are off to a good start, because they are going to be there
 11 six years hopefully and -- and going to graduate.
 12 Q. But you don't know that she did talk to
 13 Miss L[REDACTED] --
 14 A. I wouldn't know -- I wouldn't have been -- I
 15 wouldn't know that. If she talked to her that day or --
 16 Q. Now, you indicated that you remember talking to
 17 Miss L[REDACTED]. Was it about this incident? The assault?
 18 A. Actually, Denise came in --
 19 THE WITNESS: And you correct me if I'm wrong.
 20 Your sister came with you to school. I'm sorry,
 21 she can't -- I'm sorry. I'm sorry. I don't know
 22 the rules here, Denise.
 23 Q. But anyway --
 24 A. Yeah. On the 7th, when this unfolded, we talked
 25 with as many students as we knew. And you've got a good

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1 list here.
 2 Q. Excuse me, on the 7th or on the 9th?
 3 A. On the 9th. Excuse me.
 4 Q. On the 9th.
 5 A. Regarding the incident on the 19th and then the
 6 incident on the 7th. But mostly it was about the 19th.
 7 This is the one that we were focusing on. We talked to as
 8 many students as we could.
 9 And Mrs. L[REDACTED] had called earlier in that week to
 10 request work, I know, for K[REDACTED]. Because we have a form
 11 that we fill out when somebody is requesting work. And she
 12 called to tell us that K[REDACTED] was in Millcreek. And so
 13 they had requested work. And we also have to have that
 14 information for attendance purposes. So that's why I would
 15 know that there was work being requested, because we would
 16 have to have it for attendance purposes. And so that we
 17 could mark the student present, but in a different setting.
 18 What was the question?
 19 Q. Well, she came -- you recall an encounter or
 20 meeting with her.
 21 A. Oh, Mrs. L[REDACTED]. Mrs. L[REDACTED] came in on -- it was
 22 either late on the 9th or it was the 10th. I kind of think
 23 it was the 10th, because we talked to R[REDACTED] and a lot of
 24 students. I mean, I had students in and out of my office
 25 for just about two days. And I know in the middle of that

17 (Pages 62 to 65)

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1 somewhere, Mrs. L came with her -- I believe it was with
2 her sister. Because I had not met her. And then informed
3 us -- I guess K had talked to her at the hospital.
4 And so we got that important piece of information.

5 And at that time I told her that the -- that our
6 intent was to pursue criminal charges, but we couldn't do it
7 until we had all -- the information from all the kids and we
8 had talked to the parents and felt that we were -- I knew we
9 were going to do it, but I felt we were going to do it
10 Friday.

11 My goal was to get everything -- when something
12 unfolds on a Wednesday, and you have this kind of incident,
13 you want to get to Friday just as quick as you can with this
14 information on Friday morning so you have the police
15 involved. You don't want Friday to come and go and not have
16 done everything, absolutely everything you could. And you
17 want to do it quickly so that you didn't have all these kids
18 yapping to each other about changing their stories or
19 something.

20 I mean, we had kids in there, I had every single
21 person at my disposal working on this so that Friday
22 morning -- my goal was Friday morning to have the police at
23 my desk. And I remember calling the police on Thursday and
24 setting up a time for them to come Friday morning. And we
25 had all the information that we felt we had -- we had enough

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1 information that B could be charged, that C could
2 be charged, and these guys would be charged.

3 That is not our call, obviously. That is their
4 call. They do the charging, not us. But we felt we had
5 enough information that we could see them on Friday morning.
6 Denise was helpful. Every parent that came in was extremely
7 helpful.

8 Q. Well, and so what do you recall actually -- what
9 physical information did you have for the police on Friday
10 morning?

11 A. We had any of the reports from -- that was written
12 from the kids. I'm sure we had this from Cap (indicating).
13 We had every kid talk to the police. Some kids -- I think
14 probably the reason you have A. F is we probably
15 wrote that for him. We -- and the police talked to -- I
16 think Mr. P talked to the police at the police
17 station. And every other parent talked to the police at
18 school, I think. And I can't speak for Mrs. L. I don't
19 remember.

20 Q. Okay. How was it determined that this incident
21 happened on December 19th? Where did that date come from?

22 A. Came from R.

23 Q. And what did R say?

24 A. She explained the second paragraph to us.

25 Q. Well, but how did she -- I mean, R was a

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1 12-year-old girl. How did -- did she say December 19th, or,
2 I mean --

3 A. Well, we got the date -- and it was -- the last
4 day of school before the Christmas break was the 21st. And
5 I can tell you that particular day, we have -- we don't --
6 it's not a regular/regular day of school. We have classes,
7 but then we have activities during that day. It's a very
8 lower-than-usual attendance day. And you would have more
9 kids absent that day. But we had activities that day.

10 And so I know the day that -- that Miss Cap
11 talked -- that's how we -- how I determined -- well, we
12 knew -- she told us it was the 19th. And we got back to
13 that date. There were things -- that was an easy time to
14 determine because of the activities we had. We knew the
15 20th -- the day before Christmas [sic] we had activities
16 that R --

17 Q. Well, you remember -- you indicated -- you were
18 starting to say that you remember when you had the
19 conversation with K. Is that what you were going to
20 say?

21 A. Well, that was -- that was how we came upon what
22 that date was. Because it was before the date -- the last
23 day before the vacation. And when we talked to R
24 R gave us the date the 19th. That was -- we couldn't
25 manufacture something like that, because we didn't know what

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1 happened.

2 Q. Well, I understand that, but.

3 A. All right.

4 Q. But I guess --

5 A. Go ahead. Maybe I'm missing the question here.

6 Q. No, you're not. We're just trying to work through
7 this.

8 A. All right.

9 Q. You're not missing the question.

10 A. All right.

11 Q. Don't worry about that. You said, R, when
12 did it happen, and she said December 19th?

13 A. Yes. We got that information from R.

14 Q. So she knew the date from the top of her head?

15 A. Some -- well, I don't know if she knew it from the
16 top of her head, but that's -- that's the date we got from
17 her. And then that's how we started the investigation.
18 Because we had something to -- we had -- we had something to
19 go on.

20 MR. MARNEN: Let me help out here.

21 THE WITNESS: All right.

22 MR. MARNEN: Forgive me for intruding on your
23 deposition.

24 MR. OLDS: Go ahead.

25 THE WITNESS: Sorry.

18 (Pages 66 to 69)

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1 MR. MARNEN: I think he's trying to ask you
2 whether she gave you December 19th in a flat-out
3 statement, or whether you had to reconstruct it
4 from things she was telling you.
5 Q. In other words, did she say this happened
6 December 19th, or did you infer from other events that it
7 must have been December 19th?
8 A. Well, I feel very confident that this is the date,
9 no matter if we came to it by the fact that it was one
10 day -- or two days before that last Friday of events --
11 MR. MARNEN: You're not answering his question.
12 THE WITNESS: All right.
13 Q. Yeah, I --
14 A. I don't know.
15 Q. Well, that's good. But you're confident of the
16 date, but you don't know how --
17 A. Yeah, I don't know.
18 Q. As we sit here today, you don't know how you
19 specifically --
20 A. I know it wasn't October, and I know it wasn't --
21 you know what I'm saying?
22 Q. Right.
23 A. That was -- and that was a date -- I'll answer --
24 I'll answer the question this way: R[REDACTED] gave us this
25 date, and every other student we talked to confirmed that

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1 mark that as Exhibit 2 here.
2 MR. OLDS: Although, do you remember what the --
3 do you have what exhibit number it was in Cap's?
4 Because maybe we wouldn't have to mark it again.
5 (Discussion held off the record.)
6 (Woods Deposition Exhibit 2
7 marked for identification.)
8 Q. Exhibit 2 is a series of documents --
9 A. Um-hum.
10 Q. -- concerning the discipline record of C[REDACTED]
11 B[REDACTED]
12 A. Correct.
13 Q. And do you recall why Miss Cap gathered these
14 documents together?
15 A. Yeah. This probably was for the alternative
16 education program. We were trying to -- right.
17 Q. And is it fair to say that this is the type of
18 documentation that you would gather in terms of making the
19 decision to refer to the alternative education program?
20 A. That wouldn't be the only purpose of gathering
21 this. There -- I see -- very typically if a special
22 education student is having difficulty, we do behavior
23 charts, and we do, you know -- you'll have one for -- you'll
24 have one piece of -- you'll have five pieces of paper for
25 the same day. That's how you get the volume of these

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1 was the date. When we talked to all of these students, when
2 we talked to -- oh, who was there? Y[REDACTED] we talked to,
3 and A[REDACTED] F[REDACTED] we talked to. There were several
4 students we talked to.
5 And the date -- and you have to remember,
6 Mr. Olds, these kids weren't actually that far away from
7 that date. They had only been back in school a couple of
8 days. Because school started, what, probably January 2nd
9 that year. And they hadn't been out of school -- only a
10 couple days. It isn't as if there were actual weeks had
11 passed. Weeks had passed in time, calendar, but they had
12 been in school only about five days before that happened.
13 So it wasn't as if there was a -- their point of
14 reference is school days. Our point of references is a
15 calendar. But their school -- their reference to something
16 is school days.
17 Q. Okay.
18 A. There wasn't anyone that ever disputed that date
19 that we talked to.
20 (Discussion held off the record.)
21 Q. I'm going to show you a set of exhibits. And we
22 touched upon this briefly with Miss Cap --
23 A. Okay.
24 Q. -- when we started her deposition. And these are
25 records that come out of C[REDACTED] B[REDACTED] student file. We'll

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1 things.
2 We did behavior charts. I see there's a
3 Functional Behavior Plan here. These are all things that we
4 would do for any student in special education, not for the
5 purposes of AEP. This would be for the purpose of the
6 student having better behavior and staying on task more and
7 following the rules more and meeting the goals in their IEP
8 more.
9 We would do this for any student who needs to have
10 a behavior checklist. If a student is -- let's say a
11 student is -- can't find their -- student wanders in the
12 hall and doesn't get to class on time. We would have a
13 check sheet for them that says that they got to class on
14 time and that they made it to class within the allotted time
15 and so forth.
16 So a behavior chart, if you just count the number
17 of referrals here -- I don't know how many referrals there
18 are. There's plenty. But there's a lot of behavior charts
19 in here which are interventions that we would attempt with
20 someone to try to get them on task.
21 Q. Okay. Well --
22 A. This was -- to answer -- if I could just further
23 answer your question, though. We would accumulate this
24 material, obviously, to show that even despite our best
25 efforts, the student hasn't complied, and that we feel that

19 (Pages 70 to 73)

<p style="text-align: right;">Page 94</p> <p>1 you can recollect, what you said to them and what they said</p> <p>2 to you.</p> <p>3 A. That there was an incident over at the Laundromat;</p> <p>4 that we had a couple kids that were victims; we had several</p> <p>5 perpetrators; and that we were gathering information and</p> <p>6 were going to be calling parents; that all the students were</p> <p>7 in special education.</p> <p>8 Q. And did they give you any advice or tell you what</p> <p>9 to do?</p> <p>10 A. Keep us apprised.</p> <p>11 Q. Who --</p> <p>12 A. The standard stuff is the -- are the resource</p> <p>13 officers available and so forth. Wanted to know if I needed</p> <p>14 any support.</p> <p>15 Q. Who are the resource officers?</p> <p>16 A. Detective Wally Love and -- I believe Ron Slupski</p> <p>17 is a detective also. I think that's his rank.</p> <p>18 Q. Okay. What is the hierarchy of the School</p> <p>19 District above the principal? Who was your -- who did you</p> <p>20 report to?</p> <p>21 A. Assistant Superintendent John Linden.</p> <p>22 Q. And you say that Scozzie was the assistant to the</p> <p>23 superintendent?</p> <p>24 A. Yes, but we report to him also regarding --</p> <p>25 especially if the student is in special education.</p>	<p style="text-align: right;">Page 96</p> <p>1 hands that two kids were assaulted. I was interested in</p> <p>2 getting the police involved, getting enough credible</p> <p>3 evidence that the police were involved directly.</p> <p>4 When you call the hotline -- I don't know if you</p> <p>5 have ever called the hotline. But when you call the</p> <p>6 hotline, the hotline calls OCY, and OCY calls the police,</p> <p>7 and there you go. I wasn't -- I was interested in a</p> <p>8 shortcut, not a longcut.</p> <p>9 I felt that we needed to take action -- you know,</p> <p>10 get our information together and -- because at that time I</p> <p>11 wasn't -- we weren't sure what happened. I mean, we were</p> <p>12 just running as fast as we could, because we wanted to get</p> <p>13 as much clear information as we could and get the parents</p> <p>14 informed.</p> <p>15 Q. Now, the first day that you conducted this</p> <p>16 investigation, did you just meet with students or did you</p> <p>17 meet with parents also?</p> <p>18 A. I could have met with parents. I don't know the</p> <p>19 order -- exact order of each kid and each -- each parent.</p> <p>20 But we -- over the period of about a day and a half --</p> <p>21 because R[REDACTED] -- that was first period. So that would have</p> <p>22 been up till about 10:30. So in a period of a day and a</p> <p>23 half, we met with all students and all parents, with the</p> <p>24 exception of K[REDACTED] because she was hospitalized.</p> <p>25 And the police were -- and the resource officers,</p>
<p style="text-align: right;">Page 95</p> <p>1 Q. Do you know, do one of them report to the other,</p> <p>2 or are they on the same level; Linden and Scozzie?</p> <p>3 A. I don't know if they are on the same level. They</p> <p>4 have different titles. They are both management downtown.</p> <p>5 Q. And is there anyone else above the principals</p> <p>6 downtown that -- you know, in terms of the principals report</p> <p>7 to --</p> <p>8 A. Dr. Oliver was director of high schools, but I'm</p> <p>9 not sure when he took that position over. If he was the --</p> <p>10 if he was the -- he would have been informed, but I dealt</p> <p>11 with -- he would have been informed, but I dealt with</p> <p>12 Dr. Linden and Mr. Scozzie.</p> <p>13 Q. There's mandatory reporting laws in Pennsylvania;</p> <p>14 is that right?</p> <p>15 A. Um-hum.</p> <p>16 Q. In terms of a school administrator uncovering</p> <p>17 sexual abuse or suspecting sexual abuse. Are there</p> <p>18 mandatory reporting laws?</p> <p>19 A. Sure. If you suspect abuse, you call the hotline.</p> <p>20 Q. Okay. Did you call the hotline?</p> <p>21 A. No. We called the police.</p> <p>22 Q. Well, but on the 9th, when it first happened that</p> <p>23 you first talked with R[REDACTED], did you call the hotline that</p> <p>24 day?</p> <p>25 A. No. That day, Mr. Olds, we had information on our</p>	<p style="text-align: right;">Page 97</p> <p>1 our police officers, our Erie Police Department Officers.</p> <p>2 Q. Were they present at all these interviews?</p> <p>3 A. I'm not certain, but probably.</p> <p>4 Q. Now, when you say they are Erie Police Officers,</p> <p>5 does that mean that they are employees of the City of Erie?</p> <p>6 A. They are police officers employed by the City of</p> <p>7 Erie, and then the District contracts with them. And this</p> <p>8 might be a question for Mr. Scozzie. But they are</p> <p>9 contracted with the School District, I think probably mostly</p> <p>10 through Safe -- Safe Schools Grant, or something like that.</p> <p>11 And sometimes they were in uniform, sometimes they weren't.</p> <p>12 Depends if they had court or something that day. They</p> <p>13 were -- they are apprised of the situation right away.</p> <p>14 Regarding your hotline call, we would have, you</p> <p>15 know, done that if we felt that was absolutely necessary</p> <p>16 right then. We were more interested in getting the</p> <p>17 information and getting a full-blown police investigation on</p> <p>18 this. Because it didn't happen on our property, so we</p> <p>19 wanted to get the ball rolling.</p> <p>20 Q. So you had -- I think you indicated that you had</p> <p>21 as many as a half a dozen phone calls with Scozzie and</p> <p>22 Linden over those two days?</p> <p>23 A. Over three days. I'm sure.</p> <p>24 Q. Over three days.</p> <p>25 A. It would have included that Friday when we had the</p>

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1 police in too. We had the chief of police -- excuse me.
 2 Chief of security for the District, Jim Perfetto, came over
 3 for much of the interviews.
 4 Q. Did he take notes?
 5 A. I wouldn't know. You'd have to ask him.
 6 Q. And you're saying your notes were destroyed.
 7 A. Yes.
 8 Q. You did take notes?
 9 A. I took some anecdotal notes, but I would have not
 10 kept those notes. When something becomes property of the
 11 police, that's -- they take the reports of the kids, and
 12 they -- once the information gets to them -- because this
 13 was really their bailiwick, not mine. It's -- you know,
 14 after --
 15 Q. Well, it was your bailiwick because you didn't
 16 turn the investigation over to the police in the first
 17 instance. You conducted two days of investigation yourself
 18 before you turned it over to the police. Is that right?
 19 A. Right. We were just trying to get full names so
 20 that they knew who they -- who they needed to talk to. And
 21 they -- perhaps even they talked -- I'm sure they talked to
 22 more people. I have seen the police report. It's volumes.
 23 They talked to a lot of people.
 24 Q. Okay. But it was your --
 25 A. I wanted -- I wanted to get -- I wanted them to

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1 together for these two days that you had these meetings with
 2 students and parents?
 3 A. I had her pretty much shut her room down upstairs.
 4 I said everybody in this building that we need -- I had the
 5 other -- I got the other two assistants in, and I had Cap
 6 pretty much shut her door upstairs. I said, you know -- she
 7 was up and downstairs. But we had to try to use every
 8 resource that we had available and still keep a school
 9 going, to try to have at -- some -- find out what happened,
 10 number one, and get accurate information.
 11 Q. Tell me the first time you spoke to Mr. P.
 12 A. I think we saw Mr. P. on -- we saw him after
 13 school outside -- yeah. We were going to PASS or -- for
 14 some reason, we saw him outside. Told him I wanted to talk
 15 to him, and he said, I'll see you tomorrow morning. And I
 16 think we saw him Wednesday night. Right. It would have
 17 been Wednesday night. Because we saw him out Friday, and he
 18 said, I can't talk to you now, but I'll come back in the
 19 morning. And he did. He came back with R. in the
 20 morning. So he would have come on the 10th.
 21 Q. So Rachel was in PASS that day.
 22 A. It was on the 10th. I -- I don't know. But I
 23 think she was in PASS. Because we saw -- I remember seeing
 24 him outside, because I talked to him on the front steps.
 25 Yeah.

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1 get the information about -- about R. and B. -- or
 2 R. and K., and I wanted them -- I wanted us to
 3 feel like that we had gotten information prepared for
 4 them -- prepared -- just give them the names, talk to the
 5 kids, get the parents apprised. Because we owe it to the
 6 parents to try to keep them up to speed when we know
 7 something like this. And then the information goes to them.
 8 This is -- this is volumes, this police report. I read this
 9 over lunch, and I just -- I'm -- they did a lot of work. We
 10 had Mr. and Mrs. Barber, the detectives, in there. I mean,
 11 we're not policemen, Mr. Olds.
 12 Q. Right.
 13 A. We're trying to run a school and keep a safe
 14 place. And detective work is not something that I am
 15 skilled in, but something that you try to -- you want to
 16 have something credible so that when you have the police
 17 come to your building, you have some kind of order and
 18 fashion. You have correct information that you best can get
 19 for them.
 20 Q. Well, I mean, I'm sure if there was a shooting at
 21 the school, you wouldn't conduct the investigation before
 22 calling the police, would you? I mean, the police are
 23 competent to conduct an investigation, aren't they?
 24 A. We have a very competent police department.
 25 Q. Okay. So, now, were you and Miss Cappabianca

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1 Q. Do you have any idea why you sent R. to PASS
 2 after she told you she had been a victim of a sexual
 3 assault?
 4 A. That would have been on the 9th, we're talking
 5 about?
 6 Q. Right.
 7 A. I don't know why she was assigned to PASS, but we
 8 wouldn't have sent her if we felt she was in jeopardy. I
 9 can tell you that. I forget why she was assigned PASS. I
 10 don't -- I don't know why she was assigned PASS.
 11 Q. Was C. in PASS that night?
 12 A. I don't know.
 13 Q. Did you talk to C. that first day?
 14 A. Yes. Well, I don't know. First or second day. I
 15 don't know. One of those two days. Those days, Mr. Olds,
 16 run together.
 17 Q. Okay. Tell me what --
 18 A. They were pretty busy.
 19 Q. Tell me about the conversation you had with
 20 C. B.
 21 A. I had a conversation with his father. That was
 22 the first time I met his father. And his father came in. I
 23 apprised his father of what -- what we thought was
 24 happening. I wanted to get C. side of it. And I
 25 informed the father that -- that -- that we were going to

26 (Pages 98 to 101)

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1 pursue every -- that there were going to be police charges,
2 there were going to be criminal charges -- I felt that there
3 was enough evidence that we were going to -- that he would
4 be charged.

5 Q. Well, did you meet with C [REDACTED] alone?

6 A. I think -- I'm pretty sure we would have met with
7 him. I don't remember meeting with him alone. Although I'm
8 sure we would have. Because we met with all the kids -- all
9 the kids, with at least one or two adults in the room.
10 There would be myself and Miss Cap or myself and the police
11 officer. We were trying to keep the kids separate so we
12 could get -- get a straight story the best we could from
13 all -- each one of the kids. And I would have met with him
14 with no other student in the room, absolutely.

15 Q. And I just want to --

16 A. Go ahead.

17 Q. The picture is that you're investigating an
18 incident that happened off school, that you didn't think
19 that you had jurisdiction to discipline kids for, but it was
20 criminal activity. Essentially, you were investigating
21 criminal activity, which according to you, occurred off
22 school grounds. Is that right?

23 A. Well, I -- you know, from R [REDACTED] description
24 and -- and what went on -- I'm not a policeman. I'm not the
25 person that has -- that files the charges.

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1 Q. Well, that wasn't my --

2 A. Anytime there --

3 Q. That wasn't my question. I'm just trying to
4 understand. You didn't -- earlier today I asked you if you
5 disciplined C [REDACTED] B [REDACTED], and you said no, because it
6 happened off school. Is that right?

7 A. Correct.

8 Q. Okay. So --

9 A. Regarding this incident -- did I discipline
10 C [REDACTED] regarding this incident? No.

11 Q. It happened off school.

12 A. Right.

13 Q. It's criminal activity that happened off school.
14 Right?

15 A. (Witness nods head.)

16 Q. When was the last time you conducted an
17 investigation of criminal activity that occurred off school?

18 A. Well, it was a school -- the bus incident that I
19 told you about was a school function, so technically that is
20 on school property. When is the last time? I don't know.

21 Q. Did you ever conduct an investigation about
22 criminal activity that didn't occur on school grounds --

23 A. I don't conduct -- I don't conduct criminal
24 investigations. I will try to get information about
25 something that is related to school. You're making it sound

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1 like I'm a policeman. I conduct criminal -- I don't -- you
2 know, this was -- this was blatant criminal activity that
3 any -- any reasonable person would -- would identify as
4 criminal activity. And if something looks like it's related
5 to school, we may try to -- we may try to act -- talk to
6 kids about something like that.

7 Mr. Olds, what happens -- and I tell kids this all
8 the time. You may think something happens out here, but
9 eventually it makes its way back to school one way or the
10 other. You know, a few days can pass, a week can pass. But
11 if there's something that happens outside school, a lot of
12 times it drifts back into school.

13 When was the last time? I investigated something
14 with a kid who -- kid came to school, and he had an
15 outburst. He had an outburst in class or in the hall.
16 Somewhere in the school he had an outburst. And when he
17 relayed the incident to us, what he was really mad about was
18 something that happened off school property. You can't
19 ignore that. You have to go and get the parties together,
20 ascertain what the problem is. Sometimes, if there's
21 something of a -- of a criminal nature, you call the
22 resource officer in, and you tell them, and you say, what do
23 you make of this, and they advise -- they will tell us, this
24 needs to go to the police or this doesn't need to go to the
25 police. And at that time we'll have the police -- we'll

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1 have the school resource officers conduct an investigation.

2 We don't like to spend our time doing that,
3 because we have kids to educate. But depending on what
4 happens outside of school, you might actually -- what
5 happens is, it comes into school sooner or later. I tell
6 kids it's like snow at the top of a mountain. What happens
7 when snow is at the top of the mountain and the sun comes
8 out and it's 80 degrees? Water goes downhill. And a
9 problem is just like that. A problem will stay cold for a
10 long time, and the sun comes out, somebody sheds lights on
11 it, and it comes right back into the school building.

12 Q. Do you have any recollection of your conversation
13 with C [REDACTED] B [REDACTED]; what was said?

14 A. Well, I asked him about the incident.

15 Q. What did he say?

16 A. C [REDACTED] was always in the habit of denying
17 everything.

18 Q. Okay. So --

19 A. It was consensual, that kind of stuff. He denies
20 everything. But I told his father that there were -- that
21 this wasn't going to go away, we had tried AEP, so forth and
22 so forth, and that we were going to cooperate fully. And he
23 never came back.

24 Q. What about B [REDACTED] C [REDACTED]? What do you recall of
25 your meeting with her?

27 (Pages 102 to 105)